

2101 06388

COURT FILE  
NUMBER

COURT

Court of Queen's Bench of Alberta

JUDICIAL CENTRE Calgary

APPLICANT **ATB FINANCIAL**

RESPONDENTS **ALBERTA FOOTHILLS PROPERTIES LTD., 1367803  
ALBERTA LTD. o/a HOLMES COMMUNITIES, and  
DREW ATKINS**

DOCUMENT **AFFIDAVIT**

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PARTY FILING  
THIS DOCUMENT

**Fasken Martineau DuMoulin LLP**

Barristers and Solicitors  
3400 First Canadian Centre  
350 – 7 Avenue SW  
Calgary, Alberta T2P 3N9

**Attention: Travis Lysak / Mihai Tomos**

Tel: (403) 261- 5501 / (403) 261 - 7386

Email: tlysak@fasken.com / mtomos@fasken.com

File No.: 279839.00045

### **AFFIDAVIT OF JOHN SULLIVAN**

**Sworn on May 11, 2021**

I, John Sullivan, of the City of Calgary, in the Province of Alberta, MAKE OATH AND  
SWEAR AND SAY THAT:

1. I am a Director of the Turnaround and Restructuring Group of the Applicant, ATB  
Financial (the "**Lender**").

#### ***Parties***

2. The Lender is a financial institution and Crown corporation doing business in the City of  
Calgary, and elsewhere, in the Province of Alberta.



COM  
May 17, 2021  
Justice Eidsvik

3. I am primarily responsible for the administration of the Loans, as defined below, and as such, I have personal knowledge of the matters hereinafter deposed to, except where stated to be based on information and belief, and where so stated I believe the same to be true. I am authorized by the Lender to swear this affidavit on its behalf.
4. Alberta Foothills Properties Ltd. (“**AFPL**”) is a corporation incorporated pursuant to the laws of the Province of Alberta that carries on a real-estate development business in Alberta. As discussed below, AFPL borrowed funds from the Lender.
5. 1367803 Alberta Ltd., operating as Holmes Communities (“**136-3**”) is a corporation incorporated pursuant to the laws of the Province of Alberta that carries on a real-estate development business in Alberta. As discussed below, 136-3 executed an unlimited guarantee with respect to the funds borrowed by AFPL.
6. Drew Atkins (“**Mr. Atkins**”) is an individual residing in the City of Calgary, in the Province of Alberta, and is a director of AFPL. As discussed below, Mr. Atkins executed a limited guarantee with respect to the funds borrowed by AFPL.
7. 136-3 and Mr. Atkins are hereinafter collectively referred to as the “**Guarantors**”. AFPL and the Guarantors are hereinafter collectively referred to as the “**Debtors**”.
8. 1367808 Alberta Ltd. (“**136-8**”) is a corporation incorporated pursuant to the laws of the Province of Alberta. As discussed below, 136-8 executed a postponement and assignment of claims in favour of the Lender.
9. 1367809 Alberta Ltd. (“**136-9**”) is a corporation incorporated pursuant to the laws of the Province of Alberta. As discussed below, 136-9 executed a postponement and assignment of claims in favour of the Lender.
10. 1713660 Alberta Ltd. (“**171**”) is a corporation incorporated pursuant to the laws of the Province of Alberta. As discussed below, 179 executed a postponement and assignment of claims in favour of the Lender.
11. Attached hereto and collectively marked as **Exhibit “A”** are Corporate Registry Search results with respect to AFPL, 136-3, 136-8, 136-9, and 171.

***The Loans***

12. Pursuant to an amended and restated commitment letter dated September 29, 2017 executed by the Debtors (the “**Commitment Letter**”), the Lender agreed to make and made loans to the AFPL as follows:
- (a) a non-revolving demand loan facility in the amount of \$9,000,000;
  - (b) a non-revolving demand loan facility in the amount of \$1,300,000; and
  - (c) a non-revolving demand loan facility in the amount of \$800,000,
- (collectively, the “**Loans**”).
13. A copy of the Commitment Letter is attached hereto and marked as **Exhibit “B”**.
14. Pursuant to the Commitment Letter, the Loans are repayable upon demand.
15. The Loans were advanced to finance a three phase residential land development project know as Wind Walk in Okotoks, Alberta (the “**Project**”). The Project is situated on the lands legally described as:

MERIDIAN 4 RANGE 29 TOWNSHIP 20  
SECTION 16  
QUARTER NORTH WEST  
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS  
EXCEPTING:

PLAN	NUMBER	HECTARES	ACRES
ROADWAY	6393I	0.809	2.00
ROADWAY WIDENING	8210839	0.397	0.980
ROAD	8711147	4.69	11.59

EXCEPTING THEREOUT ALL MINES AND MINERALS

(the “**Lands**”).

***The Security***

16. The repayment of the monies from time to time due and owing by the AFPL to the Lender in respect of the Loans, including interest thereon and all other costs, charges, and expenses associated with the recovery of the amounts owing, including legal costs on a solicitor and

own client, full indemnity basis (collectively, the “**Indebtedness**”), is secured in whole or in part by various security instruments granted by the Debtors in favour of the Lender, including:

- (a) a General Security Agreement dated August 17, 2015, granted by AFPL in favour of the Lender, pursuant to which AFPL grants a security interest in all present and after-acquired property of AFPL as well as all present and after-acquired real property used on or in connection with the Lands (the “**GSA**”). A copy of the GSA is attached hereto and marked as **Exhibit “C”**;
- (b) a Collateral Mortgage dated August 17, 2015, granted by AFPL in favour of the Lender, pursuant to which AFPL grants an encumbrance, mortgage, and charge against the Lands up to the principal amount of \$30,000,000 (the “**Mortgage**”). A copy of the Mortgage is attached hereto and marked as **Exhibit “D”**;
- (c) a Mortgage Amending Agreement dated July 12, 2016, granted by AFPL to the Lender, amending the principal amount of the Mortgage to \$10,300,000 (the “**First Mortgage Amendment**”). A copy of the First Mortgage Amendment is attached hereto and marked as **Exhibit “E”**;
- (d) a Mortgage Amending Agreement dated September, 2017, granted by AFPL in favour of the Lender, amending the principal amount of the Mortgage to \$30,000,000 (the “**Second Mortgage Amendment**”). A copy of the Second Mortgage Amendment is attached hereto and marked as **Exhibit “F”**;
- (e) a General Assignment of Sales Agreements dated August 17, 2015, between AFPL and the Lender, pursuant to which AFPL grants a security interest in and assigns and transfers absolutely to the Lender all sales agreements, offers to purchase, accounts, debts, money, chattel paper, instruments, intangibles, and choses-in-action owing or which may become owing to AFPL by virtue of its ownership, development, and sale of the Project (the “**Assignment of Sales Agreements**”). A copy of the Assignment of Sales Agreements is attached hereto and marked as **Exhibit “G”**;

- (f) a Specific Assignment of Construction Contracts dated August 17, 2015, between AFPL and the Lender, pursuant to which AFPL grants a security interest to and in favour of the Lender in all of AFPL's right, title, and interests in and to certain agreements and choses-in-action (the "**Assignment of Construction Contracts**"). A copy of the Assignment of Construction Contracts is attached hereto and marked as **Exhibit "H"**; and
  - (g) a Specific Assignment of Development Agreements, Permits, and Approvals dated August 17, 2015, between AFPL and the Lender, pursuant to which AFPL grants a security interest to and in favour of the Lender in all of AFPL's right, title, and interests in and to certain agreements and choses-in-action (the "**Assignment of Development Agreements**" and, together with the Assignment of Sales Agreements and the Assignment of Construction Contracts, the "**Assignments**"). A copy of the Assignment of Development Agreements is attached hereto and marked as **Exhibit "I"**.
17. The GSA, the Mortgage, the First Mortgage Amendment, the Second Mortgage Amendment, and the Assignments are hereinafter be referred to collectively as the "**AFPL Security**".

*The Guarantees*

1367803 Alberta Ltd.

18. Pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated August 17, 2015 granted by 136-3 in favour of the Lender (the "**136-3 Guarantee**"), 136-3 agreed to repay the indebtedness of AFPL owing to the Lender for an unlimited amount, plus all other amounts, including interest and costs, due under the 136-3 Guarantee (the "**136-3 Guarantee Liability**").
19. A copy of the 136-6 Guarantee is attached and marked hereto as **Exhibit "J"**.
20. In conjunction with the 136-3 Guarantee, the Lender, AFPL, and 136-3 entered into a subordination and standstill agreement dated August 17, 2015 pursuant to which 136-3

subordinated and postponed certain indebtedness owing to it by AFPL in favour of the Lender (the “**Subordination Agreement**”).

21. A copy of the Subordination Agreement is attached and marked hereto as **Exhibit “K”**.

Drew Atkins

22. Pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated August 17, 2015 granted by Drew Atkins in favour of the Lender (the “**Atkins Guarantee**”), Mr. Atkins agreed to repay the indebtedness of AFPL owing to the Lender for an amount limited to \$7,000,000, plus interest and costs due under the Atkins Guarantee (the “**Atkins Guarantee Liability**”).

23. A copy of the Atkins Guarantee is attached and marked hereto as **Exhibit “L”**.

24. In addition to the AFPL Security, the 136-3 Guarantee, the Subordination Agreement, and Atkins Guarantee, the Lender, AFPL, 136-3, and Mr. Atkins entered into a Debt Servicing Agreement, dated August 17, 2015 (the “**Debt Servicing Agreement**”). Pursuant to the Debt Servicing Agreement, 136-6 and Mr. Atkins would, among other things, pay to the Lender any unpaid interest owing to the Lender by AFPL.

25. A copy of the Debt Servicing Agreement is attached and marked hereto as **Exhibit “M”**.

*Other secured stakeholders*

26. Pursuant to the Alberta Personal Property Registry Searches attached and marked hereto as **Exhibit “N”**, the Lender holds a first in time charge over the property of AFPL.
27. Pursuant to the Certificate of Title respecting the Lands, which is attached hereto and marked as **Exhibit “O”**, the Lender has a first in time charge against the Lands.

*Default*

28. By March of 2018, AFPL breached the terms of the Commitment Letter and the AFPL Security by, among other things, failing to make payments when due (the “**Default**”).

### ***Forbearance Agreement***

29. On March 16, 2018, AFPL, 136-3, Mr. Atkins, and the Lender entered into a Forbearance Agreement (the “**Forbearance Agreement**”) pursuant to which the Lender agreed to forbear from enforcing its default-related rights against the Debtors until April 16, 2018, by which time the Debtors would provide the Lender with a restructuring plan in respect of AFPL. A copy of the Forbearance Agreement is attached hereto as **Exhibit “P”**.

### ***Letter Agreement***

30. On December 21, 2018, AFPL, 136-3, Mr. Atkins, and the Lender entered into a Letter Agreement (the “**Letter Agreement**”) pursuant to which the Lender would continue to forbear from enforcing its rights against the Debtors until April 15, 2019 (the “**Second Forbearance Period**”). During the Second Forbearance Period, AFPL was required, *inter alia*, to meet certain milestones in respect of the Project’s development. A copy of the Letter Agreement is attached here as **Exhibit “Q”**.

### ***First Extension to Letter Agreement***

31. On April 29, 2019, AFPL, 136-3, Mr. Atkins, and the Lender entered into a first Amending Letter Agreement (the “**First Amending Letter Agreement**”), pursuant to which the Second Forbearance Period was extended from April 15, 2019 to August 31, 2019 (the “**Third Forbearance Period**”). During the Third Forbearance Period, AFPL was required, *inter alia*, to meet certain milestones in respect of the Project’s development. A copy of the First Amending Letter Agreement is attached here as **Exhibit “R”**.

### ***Second Extension to Letter Agreement***

32. On October 3, 2019, AFPL, 136-3, Mr. Atkins, and the Lender entered into an additional, second, Amending Letter Agreement (the “**Second Amending Letter Agreement**”), pursuant to which the Lender agreed to extend the Third Forbearance Period from August 31, 2019 to November 15, 2019 (the “**Fourth Forbearance Period**”). During the Fourth Forbearance Period, in addition to meeting certain milestones in respect of the Project’s development, AFPL was required, *inter alia*, to:

- (a) by October 31, 2019 secure third party financing sufficient to repay all indebtedness and obligations owed by the Debtors to the Lender; and
- (b) in the event that AFPL was unable to secure the third party financing required, list the Lands for sale.

33. A copy of the Second Amending Letter Agreement is attached here as **Exhibit “S”**.

***Third Extension to Letter Agreement***

34. On December 2, 2019, AFPL, 136-3, Mr. Atkins, and the Lender entered into an additional, third Amending Letter Agreement (the “**Third Amending Letter Agreement**”), pursuant to which the Lender agreed to extend the Fourth Forbearance Period from November 15, 2019 to July 15, 2020 (the “**Fifth Forbearance Period**”). During the Fifth Forbearance Period, AFPL was required, *inter alia*, to:

- (a) enter into a commitment letter with Barbican Capital Partners LLC (“**Barbican**”) and provide written confirmation of the same to the Lender;
- (b) list the Lands for sale pursuant to certain agreed upon terms; and
- (c) repay all indebtedness and obligations owed by it to the Lender by January 6, 2020.

35. A copy of the Third Amending Letter Agreement is attached here as **Exhibit “T”**.

36. By January 6, 2021 the Debtors failed to:

- (a) provide the Lender with confirmation of a commitment letter between AFPL and Barbican; and
- (b) repay the Indebtedness owing to the Lender by the Debtors.

37. Between July 15, 2020 and October 30, 2020 the Lender informally continued to forbear from enforcing its rights against the Debtors.

***Business Review by FTI Consulting Canada Inc.***



38. On July 24, 2020 the Lender retained FTI Consulting Canada Inc. (“**FTI**”) to conduct a review of AFPL’s business. Attached hereto and marked as **Exhibit “U”** is a copy of an engagement letter executed by the Lender, FTI, and AFPL.

***Fourth Extension to Letter Agreement***

39. On October 30, 2020 the Lender and the Debtors entered into a Fourth Amendment to Letter Agreement (the “**Fourth Amending Letter Agreement**”) pursuant to which:

- (a) the Fifth Forbearance Period was extended from July 15, 2020 to February 28, 2021 (the “**Sixth Forbearance Period**”);
- (b) the Debtors would continue to list the Lands for sale;
- (c) the Debtors would implement a price reduction with respect to the sale of the Lands (the “**Price Reduction**”) in the event that the Indebtedness would not be repaid to the Lender by February 28, 2021;
- (d) subject to the Debtors implementing the Price Reduction, the Sixth Forbearance Period would be extended from February 28, 2021 to April 30, 2021;
- (e) concurrent with the execution of the Fourth Amending Letter Agreement, the Debtors would execute a Consent Receivership Order, which would be held in trust by the Lender’s counsel and utilized upon the occurrence of an event of default under the Letter Agreement (as amended).

40. A copy of the Fourth Amending Letter Agreement is attached here as **Exhibit “V”**.

41. A copy of the Consent Receivership Order is attached here as **Exhibit “W”**.

***Demands***

42. Around the same time as the execution of the Fourth Amending Letter Agreement, the Lender demanded:

- (a) repayment of the Indebtedness from AFPL pursuant to a demand letter dated October 27, 2020, together with a Notice of Intention to Enforce Security under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”);
- (b) the repayment of the 136-3 Guarantee Liability from 136-3 pursuant to a demand letter dated October 27, 2020; and
- (c) the repayment of the Atkins Guarantee Liability from Mr. Atkins pursuant to a demand letter dated October 27, 2020;

(collectively, the “**Demands**”).

43. Copies of the Demands are collectively attached and marked hereto as **Exhibit “X”**.

*Defaults under the Fourth Amending Letter Agreement*

44. On January 5, 2021 the AFPL advised the Lender that the AFPL had no liability insurance in place since August of 2018, contrary to the AFPL’s obligations under the Commitment Letter.
45. Attached hereto and marked as **Exhibit “Y”** is an email from Brian Lund of AFPL to Alexandra Dudek of the Lender with respect to the foregoing.
46. Notwithstanding the terms of the Fourth Amending Letter Agreement, the Debtors failed to implement the Price Reduction by February 28, 2021 (the “**Price Reduction Default**”).
47. AFPL ultimately implemented the Price Reduction on March 22, 2021. Attached hereto and marked as **Exhibit “Z”** is an email from Brian Lund of AFPL to me with respect to the foregoing.
48. On March 30, 2021 the Lender issued a Default Notice to AFPL with respect to the Price Reduction Default (the “**Price Reduction Default Notice**”).
49. Attached hereto and marked as **Exhibit “AA”** is a copy of the Price Reduction Default Notice.

50. Notwithstanding the Price Reduction Default, the Lender informally agreed to extend the Sixth Forbearance Period to April 30, 2021.
51. The Sixth Forbearance Period expired on April 30, 2021.
52. Notwithstanding the expiration of the Sixth Forbearance Period and the Demands, the Debtors have refused or neglected to pay the amounts demanded pursuant to the Demands and the Letter Agreement.

***Additional Informal Extensions***

53. The Lender informally agreed to allow the Debtors two weeks to secure a sale of the Lands or refinancing that would allow them to repay the Indebtedness to the Lender.
54. As of May 11, 2021, the Debtors have yet to secure a sale of the Lands or refinancing. Notwithstanding the foregoing, on May 3, 2021 the Lender advised AFPL that:
  - (a) depending on the progress that AFPL would make with respect to the sale of the Lands and/or re-financing before May 17, 2021, the Lender may consider adjourning its application to appoint a receiver over the assets of AFPL; and
  - (b) the Lender would require evidence of substantial progress, such as a binding offer sufficient to pay out the Indebtedness, supported with a deposit, in order to consider such an adjournment.
55. Attached hereto and marked as **Exhibit "BB"** is a copy of an email dated May 3, 2021 that I sent to Brian Lund of AFPL with respect to the foregoing.
56. As of today's date, the Lender has not received from AFPL evidence of substantial progress with respect to the sale of the Lands and/or re-financing.

***Amounts Owning***

57. As of May 11, 2021:
  - (a) the Indebtedness equals \$13,883,382.58, including accrued interest as of May 11, 2021, plus all further accruing interest payable in accordance with the Loans plus

all costs incurred with respect to the collection thereof, including legal fees on a solicitor and own client, full indemnity basis;

- (b) the 136-3 Guarantee Liability equals \$13,883,382.58, plus all interest payable in accordance with the 136-3 Guarantee, plus all costs incurred with respect to the collection thereof, including legal fees on a solicitor and own client, full indemnity basis; and
- (c) the Atkins Guarantee Liability equals \$7,000,000, plus all interest payable in accordance with the Atkins Guarantee plus all costs incurred with respect to the collection thereof, including legal fees on a solicitor and own client, full indemnity basis.

58. Based on recent updated analysis conducted by FTI, it is unclear whether the liquidation of the Debtors' assets would generate sufficient funds to repay the Indebtedness in full.

***Necessity for the Appointment of a Receiver***

59. AFPL is insolvent as a result of, *inter alia*, its inability to meet its obligations as they generally become due.

60. Over seven months have elapsed since the Lender initially issued the demands and over 36 months have elapsed since the date of the Forbearance Agreement.

61. At this stage, given the failure of the Debtors to repay the Indebtedness, the Lender has lost faith in the Debtors' ability to sell the Lands and repay the Indebtedness.

62. In order to maximize recoveries from AFPL's estate, the Lender believes it must appoint a receiver over the assets of AFPL, which is entitled to do under the AFPL Security and pursuant to the terms of the Letter Agreement. This will:

- (a) improve the chances of consummating a sale of the Lands through a sale process, which the Debtors have not been able to secure; and


(b) enable the Receiver to deal directly with the municipality, regulators, and other stakeholders on behalf of AFPL.

63. I am advised by FTI that FTI is qualified and has agreed to act and has consented to being appointed as receiver of AFPL and exercise any and all of the proposed powers provided for in the Consent Receivership Order.

64. In light of the foregoing, I believe that the Consent Receivership Order sought is reasonable, just and convenient.

65. I swear this affidavit in support of an application for the appointment of a receiver of the assets of AFPL.

SWORN BEFORE ME at Calgary, Alberta, )  
this 11<sup>th</sup> day of May, 2021. )

  
\_\_\_\_\_  
A Commissioner of Oaths or Notary Public in )  
and for the Province of Alberta. )

  
JOHN SULLIVAN

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426


THIS IS EXHIBIT "A"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

# Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2021/05/05  
Time of Search: 08:51 AM  
Search provided by: FASKEN MARTINEAU DUMOULIN LLP  
Service Request Number: 35391839  
Customer Reference Number: 279839.00045

---

**Corporate Access Number:** 2013017559  
**Business Number:** 854195583  
**Legal Entity Name:** ALBERTA FOOTHILLS PROPERTIES LTD.

**Legal Entity Status:** Active  
**Alberta Corporation Type:** Named Alberta Corporation  
**Registration Date:** 2007/02/20 YYYY/MM/DD  
**Date of Last Status Change:** 2019/04/16 YYYY/MM/DD

## Registered Office:

**Street:** 2205, 500 - 4TH AVENUE SW  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2P2V6

## Records Address:

**Street:** 2205, 500 - 4TH AVENUE SW  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2P2V6

**Email Address:** KATHY@ALLISON-ASSOCIATES.CA

## Directors:

**Last Name:** ATKINS  
**First Name:** DREW  
**Middle Name:** G.  
**Street/Box Number:** 3505 - 18TH STREET SW.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2T4T9

**Voting Shareholders:**

**Legal Entity Name:** 1367803 ALBERTA LTD.  
**Corporate Access Number:** 2013678038  
**Street:** 3505 - 18TH STREET S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2T4T9  
**Percent Of Voting Shares:** 90

**Legal Entity Name:** INFRASTRUCTURE DEVELOPMENT GROUP INC.  
**Corporate Access Number:** 2010093553

---

**Street:** 204 SCARBORO AVENUE S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T3C2H3  
**Percent Of Voting Shares:** 10

**Details From Current Articles:****The information in this legal entity table supersedes equivalent electronic attachments**

**Share Structure:** THE ATTACHED SCHEDULE OF SHARE CAPITAL IS INCORPORATED INTO AND FORMS A PART OF THE ARTICLES OF THE CORPORATION.

**Share Transfers Restrictions:** THE ATTACHED SCHEDULE OF SHARE TRANSFER RESTRICTIONS IS INCORPORATED INTO AND FORMS A PART OF THE ARTICLES OF THE CORPORATION.

**Min Number Of Directors:** 1

**Max Number Of Directors:** 10

**Business Restricted To:** NONE

**Business Restricted From:** NONE

**Other Provisions:** THE ATTACHED SCHEDULE OF OTHER RULES OR PROVISIONS IS INCORPORATED INTO AND FORMS A PART OF THE ARTICLES OF THE CORPORATION.

**Other Information:**

**Last Annual Return Filed:**

---



<b>File Year</b>	<b>Date Filed (YYYY/MM/DD)</b>
2021	2021/03/23

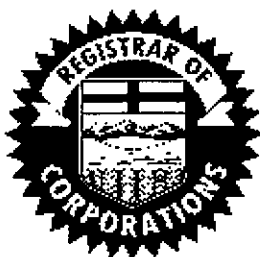
**Filing History:**

<b>List Date (YYYY/MM/DD)</b>	<b>Type of Filing</b>
2007/02/20	Incorporate Alberta Corporation
2010/09/16	Name/Structure Change Alberta Corporation
2017/05/17	Change Director / Shareholder
2019/03/13	Change Address
2019/04/02	Status Changed to Start for Failure to File Annual Returns
2020/02/19	Update BN
2021/03/23	Enter Annual Returns for Alberta and Extra-Provincial Corp.

**Attachments:**

<b>Attachment Type</b>	<b>Microfilm Bar Code</b>	<b>Date Recorded (YYYY/MM/DD)</b>
Share Structure	ELECTRONIC	2007/02/20
Other Rules or Provisions	ELECTRONIC	2007/02/20
Restrictions on Share Transfers	ELECTRONIC	2007/02/20
Share Structure	ELECTRONIC	2010/09/16

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



# Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2021/05/05  
Time of Search: 08:52 AM  
Search provided by: FASKEN MARTINEAU DUMOULIN LLP  
Service Request Number: 35391849  
Customer Reference Number: 279839.00045

---

**Corporate Access Number:** 2013678038  
**Business Number:** 823966619  
**Legal Entity Name:** 1367803 ALBERTA LTD.

**Legal Entity Status:** Active  
**Alberta Corporation Type:** Numbered Alberta Corporation  
**Registration Date:** 2007/12/07 YYYY/MM/DD  
**Date of Last Status Change:** 2019/05/30 YYYY/MM/DD

## Registered Office:

**Street:** 2205, 500 - 4TH AVENUE SW  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2P2V6

## Records Address:

**Street:** 2205, 500 - 4TH AVENUE SW  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2P2V6

**Email Address:** KATHY@ALLISON-ASSOCIATES.CA

## Directors:

**Last Name:** ATKINS  
**First Name:** DREW  
**Street/Box Number:** 3505 - 18 STREET S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2T4T9

**Last Name:** ATKINS  
**First Name:** SETH

**Street/Box Number:** 3505 - 18 STREET S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2T4T9

**Last Name:** HOLMES  
**First Name:** MIKE  
**Street/Box Number:** 10232 FOURTH LINE, R.R. #5  
**City:** MILTON  
**Province:** ONTARIO  
**Postal Code:** L9T2X9

---

**Voting Shareholders:**

**Legal Entity Name:** 1367808 ALBERTA LTD.  
**Corporate Access Number:** 2013678087  
**Street:** 2117 - 29TH AVENUE S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2T1N6  
**Percent Of Voting Shares:** 37.8

**Legal Entity Name:** 1367809 ALBERTA LTD.  
**Corporate Access Number:** 2013678095  
**Street:** 3505 - 18TH STREET S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2T4T9  
**Percent Of Voting Shares:** 37.8

**Last Name:** ROBERTS  
**First Name:** NOEL  
**Street:** 817 - 18 AVENUE NW  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2Y0V4  
**Percent Of Voting Shares:** 3.8

**Last Name:** SAPERSTEIN  
**First Name:** RONALD  
**Middle Name:** J.  
**Street:** 1602, 1088 - 6TH AVENUE S.W.  
**City:** CALGARY  
**Province:** ALBERTA

**Postal Code:** T2P5N3

**Percent Of Voting Shares:** .75

**Last Name:** SUISSA

**First Name:** AMIR

**Street:** BERGST, 12

**City:** 8142 UTIKON WALDEGG

**Postal Code:** .

**Country:** SWITZERLAND

**Percent Of Voting Shares:** 3.8

---

**Last Name:** WHEELER

**First Name:** BRENT

**Middle Name:** M.

**Street:** 1401, 1575 BEACH AVENUE

**City:** VANCOUVER

**Province:** BRITISH COLUMBIA

**Postal Code:** V6G1Y5

**Percent Of Voting Shares:** 1.51

**Last Name:** WONG

**First Name:** DAVID

**Street:** 204, 919 CENTRE STREET NW

**City:** CALGARY

**Province:** ALBERTA

**Postal Code:** T2E2P6

**Percent Of Voting Shares:** 1.9

## Details From Current Articles:

### The information in this legal entity table supersedes equivalent electronic attachments

**Share Structure:** SEE SCHEDULE A ATTACHED HERETO.

**Share Transfers Restrictions:** NO TRANSFER, ASSIGNMENT OR CONVEYANCE OF ANY SECURITIES OF THE CORPORATION SHALL BE MADE OR REGISTERED IN THE SECURITIES REGISTER WITHOUT THE APPROVAL OF THE DIRECTORS OF THE CORPORATION.

**Min Number Of Directors:** 1

**Max Number Of Directors:** 10

**Business Restricted:** NONE.

**To:**  
**Business**  
**Restricted** NONE.  
**From:**  
**Other**  
**Provisions:** SEE SCHEDULE B ATTACHED HERETO.

**Holding Shares In:**

<b>Legal Entity Name</b>
ALBERTA FOOTHILLS PROPERTIES LTD.
TROUT FARM HOLDINGS LTD.
1713660 ALBERTA LTD.
1737462 ALBERTA LTD.
1786705 ALBERTA LTD.
1805847 ALBERTA LTD.

**Other Information:**

**Last Annual Return Filed:**

<b>File Year</b>	<b>Date Filed (YYYY/MM/DD)</b>
2020	2021/03/24

**Filing History:**

<b>List Date (YYYY/MM/DD)</b>	<b>Type of Filing</b>
2007/12/07	Incorporate Alberta Corporation
2012/09/27	Change Director / Shareholder
2016/02/25	Name/Structure Change Alberta Corporation
2019/02/02	Status Changed to Start for Failure to File Annual Returns
2019/03/13	Change Address
2020/02/19	Update BN
2021/03/24	Enter Annual Returns for Alberta and Extra-Provincial Corp.

**Attachments:**

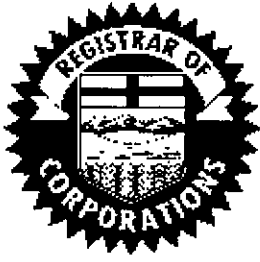
<b>Attachment Type</b>	<b>Microfilm Bar Code</b>	<b>Date Recorded (YYYY/MM/DD)</b>
Share Structure	ELECTRONIC	2007/12/07
Other Rules or Provisions	ELECTRONIC	2007/12/07

Consolidation, Split, Exchange

ELECTRONIC

2016/02/25

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



THIS IS EXHIBIT "B"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

Phone: 403-974-5129  
Fax: 403-974-5191

September \_\_\_\_\_, 2017

Alberta Foothills Properties Ltd.  
3505 – 18<sup>th</sup> Street SW  
Calgary, AB T2T 4T9

*Attn: Allan Mar and Drew Atkins*

Dear Sirs:

---

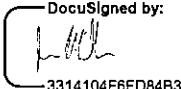
Alberta Treasury Branches has approved and offers financial assistance on the terms and conditions in the attached Commitment Letter. This agreement amends and restates in its entirety our letter dated August 10, 2017. Any borrowings outstanding under that letter agreement are deemed to be Borrowings hereunder under the related facility referenced herein.

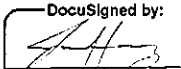
You may accept our offer by returning the enclosed duplicate of this letter, signed as indicated below, by 4:00 p.m. on or before \_\_\_\_\_, 2017 or our offer will automatically expire. This correspondence may be executed electronically; this correspondence may be delivered by email, facsimile or other functionally-equivalent electronic means. We reserve the right to cancel our offer at any time prior to acceptance.

Thank you for your continued business.

Yours truly,

**ALBERTA TREASURY BRANCHES**

By:   
3314104E6FD84B3  
Jason McIlwain, Director

By:   
Jared Henry, Associate Director

Encl.



Accepted this \_\_\_\_ day of \_\_\_\_\_, 2017

*Alberta Foothills Properties Ltd.*

Per: 

Per: \_\_\_\_\_

---

**Guarantors:**

*1367803 Alberta Ltd. o/a Holmes Communities*

Per: 

  
*Drew Atkins*

Per: \_\_\_\_\_

**COMMITMENT LETTER**

**LENDER:** ALBERTA TREASURY BRANCHES

**BORROWER:** ALBERTA FOOTHILLS PROPERTIES LTD.

**GUARANTORS:** 1367803 ALBERTA LTD. O/A HOLMES COMMUNITIES  
DREW ATKINS

**1. AMOUNTS AND TYPES OF FACILITIES (each referred to as a "Facility")**

**Facility #1 – Non-Revolver Demand Loan Facility – Cdn. \$9,000,000.00**

- (a) Facility #1 is available by way of Prime-based loans in Canadian dollars.
- (b) Facility #1 was used to finance Phase 1 land advance of a multi 3 phase residential land developments project known as Wind Walk in Okotoks, Alberta (the "Project Lands") and to provide an interest reserve of \$400,000.00 for Facility #1 and #2.
- (c) Construction advances were funded in 2 Tranches based on the following:
  - i) Tranche 1 - \$8,600,000.00 initial advance based on a maximum 40% of "as is" appraised land value; (advanced September 23, 2015)
  - ii) Tranche 2 – \$400,000.00 funded into an interest reserve account. \$250,000.00 is to be released for company overhead, with replenishment of these funds on or before October 31, 2016.
- (d) Facility #1 is non-revolving.

**Facility #2 – Non-Revolver Demand Loan Facility – Cdn. \$1,300,000.00**

- (a) Facility #2 is available by way of Prime-based loans in Canadian dollars.
- (b) Facility #2 was used to assist with the costs associated with revising the subdivision plan, engineering and administrative costs related to the Project Lands.
- (c) Facility #2 is available by way of multiple draws, but not more than one per month, on or before 12 months from the date of the first advance subject to the notice periods provided hereunder. Any amount not drawn down at that date will be cancelled and no longer available to Borrower. Advances are to be evidenced by a paid receipt and are excluding GST.
- (d) Facility #2 is non-revolving.

**Facility #3 – Non-Revolver Demand Loan Facility – Cdn. \$800,000.00**

- (a) Facility #3 is available by way of Prime-based loans in Canadian dollars.
- (b) Facility #3 is to be used as follows:
 

i)	Interest Reserve (funded)	\$240,000
ii)	Operating expenses and debenture interest payments	\$546,500
iii)	ATB Fees (funded)	<u>\$ 13,500</u>
		<b>\$800,000</b>

- (c) Facility #3 is available by way of multiple draws, but not more than one per month, on or before October 30, 2017 subject to the notice periods provided hereunder. Any amount not drawn down at that date will be cancelled and no longer available to Borrower. Advances are to be evidenced by a paid receipt and are excluding GST.
- (d) Facility #3 is non-revolving

**2. NEXT REVIEW DATE:**

All demand Facilities are subject to review by Lender at any time in its sole discretion, and at least annually. The next annual review date has been set for December 31, 2017 but may be set at an earlier or later date at the sole discretion of Lender.

**3. INTEREST RATES AND PREPAYMENT:****Facility #1:**

- (a) Pricing applicable to Facility #1 is as follows:
  - i) Prime-based loans: Interest is payable in Canadian dollars at Prime plus 1.50% per annum.
- (b) Facility #1 may be prepaid in whole or in part at any time (subject to the notice periods provided hereunder) without penalty.

**Facility #2:**

- (a) Pricing applicable to Facility #2 is as follows:
  - i) Prime-based loans: Interest is payable in Canadian dollars at Prime plus 1.50% per annum.
- (b) Facility #2 may be prepaid in whole or in part at any time (subject to the notice periods provided hereunder) without penalty.

**Facility #3:**

- (a) Pricing applicable to Facility #3 is as follows:
  - i) Prime-based loans: Interest is payable in Canadian dollars at Prime plus 1.50% per annum.
- (b) Facility #3 may be prepaid in whole or in part at any time (subject to the notice periods provided hereunder) without penalty.

**4. REPAYMENT:****Facility #1:**

- (a) Facility #1 is payable in full on demand by Lender, but in any event no later than December 31, 2017 and Lender may terminate the availability thereof (including any undrawn portion) at any time without notice.
- (b) Interest on Prime-based loans is calculated on the daily outstanding principal balance, and is payable on the last day of each month from the interest reserve account.

**Facility #2:**

- (a) Facility #2 is payable in full on demand by Lender, but in any event no later than December 31, 2017, and Lender may terminate the availability thereof (including any undrawn portion) at any time without notice.
- (b) Interest on Prime-based loans is calculated on the daily outstanding principal balance, and is payable on the last day of each month from the interest reserve account.

**Facility #3:**

- (a) ~~Facility #3 is payable in full on demand by Lender, but in any event no later than October 30, 2017, and Lender may terminate the availability thereof (including any undrawn portion) at any time without notice.~~

Interest on Prime-based loans is calculated on the daily outstanding principal balance, and is payable on the last day of each month.

**5. FEES:**

- (a) Any amount in excess of established credit facilities will be subject to a fee of 1% of such excess for each minimum 30 day period, where Lender in its sole discretion permits excess Borrowings, if any.
- (b) For reports or statements not received within the stipulated periods (and without limiting Lender's rights by virtue of such default), Borrower will be subject to a fee of \$50 per month (per monthly or quarterly report or statement) and \$250 per month (per annual report or statement) for each late reporting occurrence, which will be deducted from Borrower's account.

**6. SECURITY DOCUMENTS:**

All Security Documents (whether held or later delivered) (collectively referred to as the "Security Documents") shall secure all Facilities and shall secure all obligations of Borrower to Lender (whether present or future, direct or indirect, contingent or matured) unless and until otherwise agreed in writing by Lender. The parties acknowledge that the following Security Documents are currently held:

- (a) General Security Agreement from Borrower providing a security interest over all present and after acquired personal property located at or relating to the Project Lands;
- (b) Mortgage from Borrower in the amount of \$10,300,000.00 constituting a first fixed charge on the Project Lands;
- (c) Continuing Guarantee from 1367803 Alberta Ltd. o/a Holmes Communities – unlimited;
- (d) Continuing Guarantee from Drew Atkins – limited to \$7,000,000.00;
- (e) Assignment of Major Development Agreements, permits and approvals relating to the Project Lands;
- (f) Assignment of Major Construction Contracts relating to the Project Lands;
- (g) Assignment of Sales Agreements relating to the Project Lands;

- (h) Postponement and Assignment of Claims from 1367809 Alberta Ltd.;
  - (i) Postponement and Assignment of Claims from 1367808 Alberta Ltd.;
  - (j) Postponement and Assignment of Claims from 1713660 Alberta Ltd.;
  - (k) Subordination and Standstill Agreement executed by 1367803 Alberta Ltd.;
  - (l) Cost Overrun and Debt Servicing Agreement from the Borrower and Guarantors;
  - (m) Assignment of Monies on Deposit in the amount of \$400,000.00;
- 
- (n) Postponement and Subordination Agreement of up to \$2,000,000.00 from The Holmes Group and 1367803 Alberta Ltd. as applicable;
  - (o) Assignment of Sale Proceeds for \$800,000.00 for the sale of the water license to the MD of Foothills.

The additional security documents required at this time are as follows:

- (a) Mortgage Amending Agreement to increase the mortgage amount to \$30,000,000;
- (b) Subordination and Standstill Agreement by 1367803 Alberta Ltd. with respect to the 1367803 Obligations; and
- (c) Subordination and Standstill Agreement by M. Holmes Holdings Limited with respect to the MHHL Obligations.

The security documents are to be registered in the following jurisdictions: Alberta.

Each of the of the Loan Parties hereby acknowledges and agrees that, notwithstanding anything contained in this agreement, each of the Security Documents granted by each of the Loan Parties to Lender in connection with the Existing Commitment Letter continues in full force and effect, without in any way impairing or derogating from any of the mortgages, pledges, charges, assignments, security interests and covenants therein contained or thereby constituted, as continuing security for all indebtedness, liabilities and obligations of each of the Loan Parties to Lender, arising or incurred in connection with this agreement and the Security Documents. Each of the of the Loan Parties acknowledges and agrees that Lender is relying on this Section 5 in connection with its commitments under this agreement and further acknowledges and agrees that references in the Security Documents to the "Commitment Letter", the "Loan Agreement" or the "Credit Agreement" (as applicable) shall include this agreement, as the same may be amended, modified, supplemented, restated or replaced, from time to time, and the other documents, instruments and agreements entered into pursuant hereto

## 7. REPRESENTATIONS AND WARRANTIES:

Borrower represents and warrants to Lender that:

- (a) if a Loan Party is a corporation, it is a corporation duly incorporated, validly existing and duly registered or qualified to carry on business in the Province of Alberta and in any jurisdiction(s) in which the Project Lands are located;

- (b) if a Loan Party is a partnership, it is a partnership duly created, validly existing and duly registered or qualified to carry on business in the Province of Alberta and in any jurisdiction(s) in which the Project Lands are located;
  - (c) the execution, delivery and performance by each Loan Party of this agreement and each Security Document to which it is a party have been duly authorized by all necessary actions and do not violate its governing documents or any applicable laws or agreements to which it is subject or by which it is bound;
  - (d) no event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute, a breach of any provision of this agreement or any Security Document given in connection herewith;
- 
- (e) the most recent financial statements of Borrower and, if applicable, any Guarantor, provided to Lender fairly present its financial position as of the date thereof and its results of operations and cash flows for the fiscal period covered thereby, and since the date of such financial statements, there has occurred no material adverse change in its business or financial condition;
  - (f) Borrower is the registered and beneficial owner of the Project Assets or will be after utilizing the proceeds of the initial advance under Facility #1 hereunder, and has good and marketable title thereto free and clear of any encumbrances, charges or liens other than as may be permitted herein, and the Security Documents, once granted, will constitute a first priority mortgage and security interest on the Project Assets; and
  - (g) each Loan Party is in compliance in all material respects with all applicable laws, rules and regulations, including, without limitation, all environmental laws and builders' lien legislation, and there is no existing material impairment to its properties and assets as a result of environmental damage, except to the extent disclosed in writing to Lender and acknowledged by Lender.

#### 8. POSITIVE COVENANTS:

Borrower (and, to the extent applicable, each other Loan Party) covenants with Lender that so long as it is indebted or otherwise obligated (contingently or otherwise) to Lender, it will do and perform the following covenants. If any such covenant is to be done or performed by a Guarantor, Borrower also covenants with Lender to cause Guarantor to do or perform such covenant.

- (a) Borrower will pay to Lender when due all amounts (whether principal, interest or other sums) owing by it to Lender from time to time;
- (b) Borrower will deliver to Lender the Security Documents, in all cases in form and substance satisfactory to Lender and Lender's solicitor;
- (c) Borrower will use the proceeds of loans only for the purposes approved by Lender;
- (d) Each Loan Party will maintain its valid existence as a corporation or partnership, as the case may be, and will maintain all licenses, permits and authorizations required from regulatory or governmental authorities or agencies to permit it to carry on its business, including, without limitation, any licenses, permits and authorizations in respect of the Project, and any licenses, certificates, permits and consents for the protection of the environment;
- (e) Each Loan Party will maintain appropriate books of account and records relative to the operation of its business and financial condition and relative to the Project, and will

maintain a separate bank account with Lender for the Project into which all funds received from the Project will be deposited and from which all costs relating to the Project shall be paid;

- (f) Borrower will diligently and continuously proceed with the development of the Project in accordance with the project schedule and budget provided to Lender;
- (g) Borrower will maintain appropriate types and amounts of insurance on the Project, including liability insurance, with Lender shown as first loss payee on any property insurance, will provide evidence of insurance to Lender on request, and will promptly advise Lender in writing of any significant loss or damage to its property;

---

- (h) Borrower will permit Lender, by its officers or authorized representatives (including any project inspector) at any reasonable time, to enter its premises and to inspect the Project Assets, and to examine and copy all relevant books of accounts, records, budgets and forecasts of Borrower and each Guarantor;
- (i) Borrower will provide to Lender as soon as possible and in any event;
  - i) within 120 days after the end of each of its fiscal years:
    - (I) financial statements of Borrower on a review engagement basis prepared by a firm of qualified accountants. Lender reserves the right to require audited financial statements;
    - (II) financial statements of the Corporate Guarantor on a review engagement basis prepared by a firm of qualified accountants. Lender reserves the right to require audited financial statements;
    - (III) paid tax certificate;
    - (IV) evidence of insurance renewal;
- (j) Each Loan Party will provide to Lender on request any further information regarding its assets, operations and financial condition that Lender may from time to time reasonably require;
- (k) Borrower will permit Lender, at Lender's cost, to erect a sign on the Project Lands indicating that Lender is providing financing for the Project;
- (l) Each Loan Party will remit all sums when due to tax and other governmental authorities (including, without limitation, any sums in respect of employees and GST), and upon request, will provide Lender with such information and documentation in respect thereof as Lender may reasonably require from time to time;
- (m) Each Loan Party will comply with all applicable laws, rules and regulations, including without limitation, environmental laws and builders' lien legislation;
- (n) Upon request by Lender, Borrower and each other Loan Party will jointly and severally immediately fund any cost overruns and changes to the Eligible Project Costs notwithstanding that amounts remain within the contingency portion of the Eligible Project Costs, utilizing resources outside of the Project. Lender reserves the right not to fund the requested advance and to suspend further advances until such time as the required funds are injected into the Project and satisfactory evidence thereof is provided;

- (o) Borrower will promptly advise Lender in writing, giving reasonable details, of (i) the discovery of any contaminant or any spill, discharge or release of a contaminant into the environment from or upon any property of a Loan Party which could reasonably be expected to result in a Material Adverse Effect, (ii) any event which constitutes, or which with notice, lapse of time or both, would constitute a breach of any provision hereof or of any Security Documents, and (iii) each event which has or is reasonably likely to have a Material Adverse Effect;
- (p) Borrower will remove any encumbrance, lien or charge against the Project or the Project Assets which is not permitted hereunder within seven days of written notice from Lender;
- (q) Borrower acknowledges that Lender has the right to make payments directly to contractors and suppliers in connection with the Project;
- (r) Borrower acknowledges responsibility for any lien holdback fund relating to the Project and absolves Lender of any responsibility for same;
- (s) Borrower will apply proceeds from the MD of Foothills for reimbursement of planning and design costs of the water utility to Facility #1 and Facility #2 upon receipt;
- (t) Each Loan Party shall ensure that the Lender receives payment from the proceeds of the WLT Agreement concurrently with the closing under the WLT Agreement; and
- (u) On or before September 30, 2017, the Borrower will have discharged instrument no. 161 167 412 and instrument no. 171 174 512 registered against Project Lands by Douglas V. Allison Professional Corporation, or have Douglas V. Allison Professional Corporation enter into a subordination and standstill agreement with the Lender, in form and substance satisfactory to the Lender.

## 9. NEGATIVE COVENANTS:

Borrower (and, to the extent applicable, each other Loan Party) covenants with Lender that while it is indebted or otherwise obligated (contingently or otherwise) to Lender, it will not do any of the following, without the prior written consent of Lender. If a Guarantor is not to do an act, Borrower also covenants with Lender not to permit Guarantor to do such act.

- (a) Borrower will not create or permit to exist any mortgage, charge, lien, encumbrance or other security interest on or affecting the Project Assets (whether in priority to or subsequent to the Security Documents), other than Permitted Encumbrances;
- (b) Borrower will not sell, lease or otherwise dispose of the Project Assets except where the sale proceeds are applied to repayment of the Facilities;
- (c) A Loan Party will not consent to or facilitate a change in the ownership of its shares or allow a material change in its management without the prior written consent of Lender;
- (d) A Loan Party will not amalgamate, consolidate, or merge with any other person, and will not enter into any partnership or joint venture involving the Project Assets with any other person;
- (e) A Loan Party will not allow any pollutant (including any pollutant now on, under or about such land) to be placed, handled, stored, disposed of or released on, under or about any of its lands unless done in the normal course of its business and then only as long as



it complies with all applicable laws in placing, handling, storing, transporting, disposing of or otherwise dealing with such pollutants;

- (f) Borrower will not make changes to the Eligible Project Costs, which exceed on a cumulative basis an amount that will result in 100% or more of the approved contingency portion of the Eligible Project Costs to be utilized;
  - (g) Borrower will not withdraw Project equity and profits until all of the Facilities are repaid in full and cancelled;
  - (h) Borrower will not register restrictive covenants on the Project Lands that would impede the Lender's ability to dispose of lots if required;
- 
- (i) Borrower will not make any payment of salaries for Holmes Communities and for clarity, all funds under Facility #3 are to be used for the express purpose of forwarding the Wind Wall project;
  - (j) Borrower will not make any payments under the Permitted Indebtedness other than interest only payments, subject to the terms of the subordination and standstill agreement with the Lender, in form and substance satisfactory to the Lender;
  - (k) the Loan Parties will not amend or terminate the WLT Agreement; and
  - (l) a Loan Party will not create, incur, assume or allow to exist any Indebtedness other than:
    - i) trade payables incurred in the ordinary course of business;
    - ii) any Indebtedness secured by a Permitted Encumbrance;
    - iii) Permitted Indebtedness; and
    - iv) any Indebtedness owing to Lender.

#### 10. PROJECT MONITOR:

Lender will employ, at Borrower's expense, an independent supervisory engineer/quantity surveyor (the "Project Monitor") to act on Lender's behalf during the development stage of the Project.

Prior to the first advance, the Project Monitor shall review all final working drawings and specifications, budgets, and any other relevant material related to the Project.

Based on the foregoing, the Project Monitor shall supply to Lender, his written professional opinion with regard to the following:

- (a) The adequacy and reasonableness of the construction/hard costs, development/soft costs, contingency and interest reserve.
- (b) The reasonableness of the development schedule.
- (c) That all approvals required for a project of this nature are in place and the development complies with all building codes, zoning regulations, approvals, and any other requirement that may be imposed by a government authority with jurisdiction over the Project.

- (d) The adequacy of the soil conditions for the project undertaken, or alternatively the adequacy of the construction design to accommodate any unique soil conditions within the Project.
- (e) The construction contracts entered into for 75% of hard costs conform to Lender's requirements for stipulated price contracts in these areas and are consistent with the budget provided and work to be undertaken, and conform to the plans and specification originally provided to Lender.

Prior to each advance or as required, the Project Monitor shall make a site inspection and will submit a report to Lender in the form attached as Schedule "B" – Project Monitor's Certificate, or in such other form as Lender may accept, acting reasonably.

---

## 11. CONDITIONS PRECEDENT:

No Facilities will be available and the availability of further advances will be curtailed until the following conditions precedent have been satisfied, unless waived by Lender:

- (a) Lender has received all Security Documents and all registrations and filings have been completed, in all cases in form and substance satisfactory to Lender;
- (b) Borrower and Guarantors (if any) have provided all authorizations and all financial statements, appraisals, budgets, environmental reports and any other information that Lender may require;
- (c) Lender has received payment of all fees due in respect hereof;
- (d) Lender is satisfied as to the value of Borrower's and any Guarantor's assets and financial condition, and Borrower's and any Guarantor's ability to carry on business and repay any amount owed to Lender from time to time;
- (e) There is no default hereunder or under any Security Document;
- (f) All representations and warranties hereunder are true and correct in all material respects as if made on such date;
- (g) Lender has received evidence that all insurance required by Lender is in place ;
- (h) Lender has received a satisfactory appraisal indicating the present market value of the Project Lands to be not less than \$40,100,000.00 based on "as annexed" (held on file) along with a transmittal letter;
- (i) Lender has received a satisfactory independent Phase I environmental audit with respect to the Project Lands (held on file) along with a transmittal letter;
- (j) Lender has received a satisfactory geotechnical report with respect to the Project Lands;
- (k) Lender has reviewed and found satisfactory the development agreement relating to the Project;
- (l) Lender has received accountant prepared notice to reader financial statements for the year ending 2015 for 1367803 Alberta Ltd. and Alberta Foothills Properties Ltd.;
- (m) Lender has received satisfactory evidence of amended shareholder structure;

- (n) Lender has received satisfactory confirmation that the Borrower's Equity Requirement has been injected into the Project.

## 12. CONDITIONS PRECEDENT TO SUBSEQUENT ADVANCES:

- (a) All draws under Facility #1 will be supported by the following documents in a form and substance satisfactory to Lender:
- i) From the Borrower:
    - A Project expense summary that outlines for each major expense category, the original budget, revised budget, costs to date, costs this draw, total costs and cost to complete.
    - A brief commentary on the nature of any changes to the budget or utilization of the contingency.
    - A written draw request in the form attached as Schedule "A".
  - ii) From the Project Monitor, a certificate in the form attached as Schedule "B".
- (b) On the day on which an advance is to be funded under any Facility, Lender is to perform title searches on the Project Lands at Borrower's expense to ensure no builders' liens or other non-Permitted Encumbrances have been registered.

In the event a builders' lien or other non-Permitted Encumbrance has been registered against the Project Lands, Lender reserves the right not to fund the requested advance and to suspend further advances until such time as the lien or encumbrance is removed.

## 13. AUTHORIZATIONS AND SUPPORTING DOCUMENTS:

Borrower has delivered or will deliver the following authorizations and supporting documents to Lender:

- (a) Borrower:
- i) Incorporation documents including Certificate of Incorporation, Articles of Incorporation (including any amendments) and last Notice of Directors;
  - ii) Banking resolution in form provided by Lender or otherwise acceptable to Lender;
  - iii) Credit Information and Alberta Land Titles Office Name Search Consent Form;
- (b) Corporate Guarantors:
- i) Corporate Guarantee Resolution;
  - ii) Incorporation documents including Certificate of Incorporation, Articles of Incorporation (including any amendments) and last Notice of Directors;
- (c) General:
- i) Solicitor Opinion Letter from counsel to Borrower and any Guarantors and from counsel to Lender.

**14. DRAWDOWNS, PAYMENTS AND EVIDENCE OF INDEBTEDNESS:**

- (a) Principal advances and repayments on Prime-based loans under Facility #1, Facility #2 and Facility #3 are to be to the nearest dollar.
- (b) Borrower shall monitor its Borrowings to ensure that the Borrowings hereunder do not exceed the maximum amount available hereunder. Lender shall have no obligation to make any borrowing available in excess of amounts available hereunder.
- (c) Borrower shall provide notice to Lender prior to requesting an advance or making a repayment of Borrowings hereunder, as follows:
  - i) under \$5,000,000 – same day notice
  - ii) \$5,000,000 and over – one Business Day prior written notice
- (d) Borrower may cancel the availability of any unused portion of a Facility on five Business Days' notice. Any such cancellation is irrevocable.
- (e) Where the interest rate is floating based on Prime, the annual rates of interest to which those rates calculated in accordance with this agreement are equivalent, are the rates so calculated multiplied by the actual number of days in the calendar year in which such calculation is made and divided by 365.
- (f) If any amount due hereunder is not paid when due, Borrower shall pay interest on such unpaid amount (including without limitation, interest on interest) if and to the fullest extent permitted by applicable law, at a rate per annum equal to Prime plus 5%.
- (g) The branch of Lender (the "**Branch of Account**") where Borrower maintains an account and through which the Borrowings will be made available is located at Calgary Marda Loop Branch, 2140 – 34<sup>th</sup> Avenue SW, Calgary, Alberta T2T 5P6. Funds under the Facilities will be advanced into and repaid from account no. 790-00179246601 at the Branch of Account, or such other branch or account as Borrower and Lender may agree upon from time to time.
- (h) Lender shall open and maintain at the Branch of Account accounts and records evidencing the Borrowings made available to Borrower by Lender under this agreement. Lender shall record the principal amount of each Borrowing and the payment of principal, interest and fees and all other amounts becoming due to Lender under this agreement. Lender's accounts and records (and any confirmations issued hereunder) constitute, in the absence of manifest error, conclusive evidence of the indebtedness of Borrower to Lender pursuant to this agreement.
- (i) Borrower authorizes and directs Lender to automatically debit, by mechanical, electronic or manual means, any bank account of Borrower for all amounts payable by Borrower to Lender pursuant to this agreement. Any amount due on a day other than a Business Day shall be deemed to be due on the Business Day next following such day, and interest shall accrue accordingly.

**15. MISCELLANEOUS:**

- (a) All legal and other costs and expenses incurred by Lender in respect of the Facilities, the Security Documents and other related matters will be paid or reimbursed by Borrower on demand by Lender.

- (b) All Security Documents will be prepared by or under the supervision of Lender's solicitors, unless Lender otherwise permits. Acceptance of this offer will authorize Lender to instruct Lender's solicitors to prepare all necessary Security Documents and proceed with related matters.
- (c) Lender, without restriction, may waive in writing the satisfaction, observance or performance of any of the provisions of this Commitment Letter. The obligations of a Guarantor (if any) will not be diminished, discharged or otherwise affected by or as a result of any such waiver, except to the extent that such waiver relates to an obligation of such Guarantor. Any waiver by Lender of the strict performance of any provision hereof will not be deemed to be a waiver of any subsequent default, and any partial exercise of any right or remedy by Lender shall not be deemed to affect any other right or remedy to which Lender may be entitled.
- (d) Lender is authorized but not obligated, at any time after Borrower is in default hereunder or Lender has demanded payment of any of the Facilities, to apply any credit balance, whether or not then due, to which Borrower is entitled on any account in any currency at any branch or office of Lender in or towards satisfaction of the obligations of Borrower due to Lender under this agreement. Lender is authorized to use any such credit balance to buy such other currencies as may be necessary to effect such application.
- (e) Words importing the singular will include the plural and vice versa, and words importing gender will include the masculine, feminine and neuter, and anything referring to a person will include a body corporate and a partnership and any entity, in each case all as the context and the nature of the parties requires.
- (f) Where more than one person is liable as Borrower (or as a Guarantor) for any obligation hereunder, then the liability of each such person for such obligation is joint and several with each other such person.
- (g) If any portion of this agreement is held invalid or unenforceable, the remainder of this agreement will not be affected and will be valid and enforceable to the fullest extent permitted by law.
- (h) Where the interest rate for a credit is based on Prime, the applicable rate on any day will depend on the Prime rate in effect on that day. The statement by Lender as to Prime and as to the rate of interest applicable to a credit on any day will be binding and conclusive for all purposes. All interest rates specified are nominal annual rates. The effective annual rate in any case will vary with payment frequency. All interest payable hereunder bears interest as well after as before maturity, default and judgment with interest on overdue interest at the applicable rate payable hereunder. To the extent permitted by law, Borrower waives the provisions of the *Judgment Interest Act* (Alberta).
- (i) Any written communication which a party may wish to serve on any other party may be served personally (in the case of a body corporate, on any officer or director thereof) or by leaving the same at or couriering or mailing the same by registered mail to the Branch of Account (for Lender) or to the last known address (for Borrower or any Guarantor), and in the case of mailing will be deemed to have been received two (2) Business Days after mailing except in the case of postal disruption.
- (j) In the event of any conflict between the provisions of this agreement and those of a Security Document, the provisions of this agreement prevail. The terms of this agreement shall survive the execution and delivery of the Security Documents.

- (k) Unless otherwise specified, references herein to "\$" and "dollars" mean Canadian dollars.
- (l) Lender shall have the right to assign, sell or participate its rights and obligations in the Facilities or in any Borrowing thereunder, in whole or in part, to one or more persons, provided that the consent of Borrower shall be required if no default is then in existence, such consent not to be unreasonably withheld or delayed.
- (m) Borrower shall indemnify Lender against all losses, liabilities, claims, damages or expenses (including without limitation legal expenses on a solicitor and his own client basis) (i) incurred in connection with the entry into, performance or enforcement of this agreement, the use of the Facility proceeds or any breach by Borrower of the terms hereof or any document related hereto, or (ii) arising out of or in respect of: (A) the release of any hazardous or toxic waste or other substance into the environment from any property of Borrower or any of its subsidiaries, and (B) the remedial action (if any) taken by Lender in respect of any such release, contamination or pollution. This indemnity will survive the repayment or cancellation of any of the Facilities or any termination of this agreement.
- (n) Each accounting term used hereunder, unless otherwise defined herein, has the meaning assigned to it under GAAP consistently applied. If there occurs a change in generally accepted accounting principles (an "Accounting Change"), including as a result of a conversion to International Financial Reporting Standards, and such change would result in a change (other than an immaterial change) in the calculation of any financial covenant, standard or term used hereunder, then at the request of Borrower or Lender, Borrower and Lender shall enter into negotiations to amend such provisions so as to reflect such Accounting Change with the result that the criteria for evaluating the financial condition of Borrower or any other party, as applicable, shall be the same after such Accounting Change, as if such Accounting Change had not occurred. If, however, within 30 days of the foregoing request by Borrower or Lender, Borrower and Lender have not reached agreement on such amendment, the method of calculation shall not be revised and all amounts to be determined thereunder shall be determined without giving effect to the Accounting Change.
- (o) For certainty, the permission to create a Permitted Encumbrance shall not be construed as a subordination or postponement, express or implied, of Lender's Security Documents to such Permitted Encumbrance.
- (p) Borrower's information, corporate or personal, may be subject to disclosure without its consent pursuant to provincial, federal, national or international laws as they apply to the product or service Borrower has with Lender or any third party acting on behalf of or contracting with Lender.
- (q) Time shall be of the essence in all provisions of this agreement.
- (r) This agreement may be executed in counterpart.
- (s) This agreement shall be governed by the laws of Alberta.
- (t) Scott Sangster of Fasken Martineau DuMoulin LLP is designated as Lender's solicitor.
- (u) Doug Allison of Tingle Merrett LLP is designated as Borrower's solicitor.

**16. DEFINITIONS:**

"**1367803 Obligations**" means the obligations owed to 1367803 Alberta Ltd. by the Borrower pursuant to (i) a promissory note dated January 1, 2013 in the principal amount of \$6,000,000.00, and (ii) the confirmation letter dated August 9, 2017 from 1367803 Alberta Ltd., evidencing the debenture interest payments made by 1367803 Alberta Ltd. on behalf of the Borrower in the amount of \$162,827.51.

"**Borrower's Equity Requirement**" means, in respect of a Project, the difference between the Eligible Project Costs for such Project and the applicable Maximum Loan Amount.

"**Borrowings**" means all amounts outstanding under the Facilities, or if the context so requires, all amounts outstanding under one or more of the Facilities.

"**Business Day**" means a day, excluding Saturday and Sunday, on which banking institutions are open for business in the province of Alberta.

"**Eligible Project Costs**" means, in respect of a Project, those costs set out in the Borrower's project budget for that Project which have been approved by Lender and any applicable Project Monitor.

"**Guarantor**" means any party that has provided a guarantee in favour of Lender with respect to the Borrowings hereunder.

"**Indebtedness**" means all present and future obligations and indebtedness of a person, whether direct or indirect, absolute or contingent, including all indebtedness for borrowed money, all obligations in respect of swap or hedging arrangements and all other liabilities which in accordance with GAAP would appear on the liability side of a balance sheet (other than items of capital, retained earnings and surplus or deferred tax reserves).

"**Letter of Credit**" means a standby or documentary letter of credit or letter of guarantee issued by the Lender on behalf of the Borrower.

"**Loan Amount Remaining to Advance**" means, in respect of a Facility, the Maximum Loan Amount for such Facility or the Project to which it relates, less advances thereunder made to date.

"**Loan Parties**" means the Borrower and all Guarantors other than any Guarantors that are natural persons, and "**Loan Party**" means any of them.

"**Material Adverse Effect**" means a material adverse effect on:

- (a) the financial condition of Borrower or of any Guarantor; or
- (b) the ability of Borrower or any Guarantor to repay amounts owing hereunder or under its guarantee in respect hereof.

"**Maximum Loan Amount**" means, in respect of the Project, the Maximum Facility #1 Loan Amount.

"**MHHL Obligations**" means the obligations owed to M. Holmes Holdings Limited by the Borrower pursuant to the loan agreement dated September 8, 2016 in an principal amount of \$2,000,000.00.

"**Permitted Encumbrances**" means, in respect of the Borrower and any Guarantor, the following:

- (a) undetermined or inchoate liens and charges incidental to construction or current operations which have not at such time been filed pursuant to law or which relate to obligations not due or delinquent;

- (b) easements, rights-of-way, servitudes or other similar rights in land (including, without in any way limiting the generality of the foregoing, rights-of-way and servitudes for railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) granted to or reserved or taken by other persons which singularly or in the aggregate do not materially detract from the value of the land concerned or materially impair its use in the operation of the business of Borrower or such Guarantor;
- (c) any security granted by the Borrower to 1367803 Alberta Ltd. in connection with the 1367803 Obligations, subject to the terms of the subordination and standstill agreement with the Lender, in form and substance satisfactory to the Lender; and

---

- (d) any security granted by the Borrower to M. Holmes Holdings Limited in connection with the MHHL Obligations, subject to the terms of the subordination and standstill agreement with the Lender, in form and substance satisfactory to the Lender.

**"Permitted Indebtedness"** means, in respect of the Borrower and any Guarantor, the following:

- (a) the 1367803 Obligations in an aggregate principal amount not exceeding \$6,162,827.51 subject to the terms of the subordination and standstill agreement with the Lender, in form and substance satisfactory to the Lender; and
- (b) the MHHL Obligations in an aggregate principal amount not exceeding \$2,000,000.00, subject to the terms of the subordination and standstill agreement with the Lender, in form and substance satisfactory to the Lender.

**"Prime"** means the prime lending rate per annum established by Lender from time to time for commercial loans denominated in Canadian dollars made by Lender in Canada.

**"Project"** means, collectively, the development being undertaken at or related to the Project Assets.

**"Project Assets"** means, collectively, the Project Lands, any personal property located thereon or related thereto and the Borrower's interest in any permits, approvals and contracts relating thereto, including without limitation any development agreements, construction contracts and sales agreements.

**"Project Lands"** means the land legally described as Meridian 4, Range 29, Township 20, Section 16 NW Quarter and municipally located at Okotoks, Alberta.

**"WLT Agreement"** means the water license transfer agreement dated June 8, 2017, between 1367803 Alberta Ltd. and the Municipal District of Foothills No. 31.



SCHEDULE "A"

DRAW REQUEST

To: Alberta Treasury Branches ("Lender")  
Suite 600, 585 – 8<sup>th</sup> Avenue SW  
Calgary, AB T2P 1G1  
Attention: Jason McIlwain

From: Alberta Foothills Properties Ltd. ("Borrower")

Re: Project #\_\_\_\_: \_\_\_\_\_ ("Project")

Borrower hereby requests an advance of \$\_\_\_\_\_ for work done on the Project from \_\_\_\_\_, 20\_\_ to \_\_\_\_\_, 20\_\_ pursuant to the terms of the letter agreement between Lender and Borrower dated \_\_\_\_\_, 20\_\_ (the "Agreement").

Capitalized terms used and not otherwise defined herein shall have the same meaning given to them in the Agreement.

Borrower hereby certifies to Lender that:

1. The representations and warranties contained in the Agreement are true and correct in all respects as of the date hereof.
2. No event or circumstance has occurred, or would result from this advance, which constitutes or which, with the giving of notice, lapse of time, or both, would constitute a breach of any covenant or other term or condition of the Agreement and there is no reason to believe that during the next fiscal quarter of Borrower, any such event or circumstance will occur.
3. Borrower has been diligently and continuously proceeding with the development of the Project in accordance with the Project schedule and budget provided to Lender.
4. The funds to be advanced are to be disbursed to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount</u>
_____	_____
_____	_____

5. All accounts payable up to the date of the last advance have been paid in full.
6. No builders' lien has been filed against the Project Lands and all payments made by Borrower in connection with the Project have been disbursed in compliance with the *Builders' Lien Act* (Alberta).
7. The Loan Amount Remaining to Advance for Facility #\_\_\_ will be sufficient to fully complete the Project and to retire all accounts payables relating to the Project.

A-2

8. The estimated completion date is \_\_\_\_\_, 20\_\_ and the estimated cost to complete is \$\_\_\_\_\_.

9. The attached summary of Project costs is true and accurate.

This Draw Request may be executed electronically; this Draw Request may be delivered by email, facsimile or other functionally-equivalent electronic means.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

---

***Alberta Foothills Properties Ltd.***

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE "B"**

**PROJECT MONITOR'S CERTIFICATE**

To: Alberta Treasury Branches ("**Lender**")  
Suite 600, 585 – 8<sup>th</sup> Avenue SW  
Calgary, AB T2P 1G1  
Attention: Jason McIlwain

Re: Borrower: Alberta Foothills Properties Ltd. ("**Borrower**")  
Project # \_\_\_\_ : \_\_\_\_\_ ("**Project**")  
Project Lands: \_\_\_\_\_ ("**Project Lands**")  
Advance on \_\_\_\_\_, 20 \_\_\_\_ (the "**Advance**")

After making such reasonable enquiries as we have deemed necessary in the circumstances, we hereby certify to Lender as follows:

1. We have conducted periodic inspections of the Project Lands since the commencement of development and we last inspected the Project on \_\_\_\_\_, 20 \_\_\_\_ (the "**Inspection Date**").
2. All required licenses, permits and other authorizations required in connection with the Project have been obtained and are being maintained.
3. The development of the Project up to and including the Inspection Date (i) has been performed in a good and workmanlike manner; and (ii) has been performed substantially in accordance with (A) all required licenses, permits and other authorizations, (B) all applicable building codes, municipal bylaws and regulations, (C) the Project plans and specifications, and (D) all applicable laws, including, without limitation, environmental laws.
4. The development of the Project is progressing within the original Project schedule.
5. In our opinion, as of the date hereof, the figures set forth below accurately reflect the Project costs or work completed on the Project and the costs of the remaining work required to complete the Project in accordance with the plans and specifications. A report setting out these figures and calculations in greater detail is attached hereto and forms part of this Certificate.

- |     |   |          |
|-----|---|----------|
| (a) | Project costs of work completed to date:  | \$ _____ |
| (b) | Project costs of remaining work:          | \$ _____ |
| (c) | Estimated total Project costs (a+b):      | \$ _____ |
| (d) | Original estimate of total Project costs: | \$ _____ |
| (e) | Amount of additional costs, if any (c-d): | \$ _____ |

The additional costs noted above include the following cost overruns and change orders and are considered reasonable given the scope of the work to be completed:

\_\_\_\_\_  
\_\_\_\_\_

Notwithstanding these changes, the amount of the contingency reserve remaining is considered reasonable given the costs remaining to complete.

6. In our opinion, as of the date hereof, the estimated date of completion of the Project is \_\_\_\_\_, 20\_\_.

7. Borrower's request for the Advance represents work completed and amounts now due and payable on the Project less the applicable holdbacks and the cost of work to be completed does not exceed the amount of the undisbursed portion of the credit facilities available under your letter agreement dated \_\_\_\_\_, 20\_\_ (the "Agreement").

This certificate is given in connection with the Advance under the Agreement, and Lender may rely upon it in making such Advance.

This certificate may be executed electronically; this certificate may be delivered by email, facsimile or other functionally-equivalent electronic means.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
*[name of Project Monitor]*

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### Certificate Of Completion

Envelope Id: 707BA3BFE49C496294C9BC04B00D358B  
 Subject: Please DocuSign this document: 20170929161226181.pdf  
 Source Envelope:  
 Document Pages: 21 Signatures: 2  
 Certificate Pages: 1 Initials: 0  
 AutoNav: Enabled  
 EnvelopeId Stamping: Enabled  
 Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Status: Completed  
 Envelope Originator:  
 Jared Henry  
 Suite 2100, 10020 100 Street NW  
 Edmonton, AB T5J 0N3  
 JHenry@atb.com  
 IP Address: 10.102.101.11

### Record Tracking

Status: Original Holder: Jared Henry Location: DocuSign  
 2018-03-02 | 11:08 AM JHenry@atb.com

### Signer Events

Jared Henry  
 JHenry@atb.com  
 Account Mgr  
 ATB Financial  
 Security Level: Email, Account Authentication (None)  
 Electronic Record and Signature Disclosure:  
 Not Offered via DocuSign

### Signature

DocuSigned by:  
  
 C6B9C21670C44F6  
 Using IP Address: 142.241.254.68

### Timestamp

Sent: 2018-03-02 | 11:08 AM  
 Viewed: 2018-03-02 | 11:10 AM  
 Signed: 2018-03-02 | 11:10 AM

Jason Mclwain  
 jmcilwain@atb.com  
 Relationship Mgr  
 ATB Financial  
 Security Level: Email, Account Authentication (None)  
 Electronic Record and Signature Disclosure:  
 Not Offered via DocuSign

DocuSigned by:  
  
 3314104F6FD8493  
 Using IP Address: 207.228.78.32  
 Signed using mobile

Sent: 2018-03-02 | 11:08 AM  
 Viewed: 2018-03-02 | 11:32 AM  
 Signed: 2018-03-02 | 11:32 AM

### In Person Signer Events

### Signature

### Timestamp

### Editor Delivery Events

### Status

### Timestamp

### Agent Delivery Events

### Status

### Timestamp

### Intermediary Delivery Events

### Status

### Timestamp

### Certified Delivery Events

### Status

### Timestamp

### Carbon Copy Events

### Status

### Timestamp

### Notary Events

### Signature

### Timestamp

### Envelope Summary Events

### Status

### Timestamps

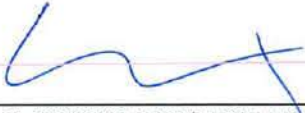
Envelope Sent	Hashed/Encrypted	2018-03-02   11:08 AM
Certified Delivered	Security Checked	2018-03-02   11:32 AM
Signing Complete	Security Checked	2018-03-02   11:32 AM
Completed	Security Checked	2018-03-02   11:32 AM

### Payment Events

### Status

### Timestamps

THIS IS EXHIBIT "C"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

# GENERAL SECURITY AGREEMENT

Commercial

TO: Alberta Treasury Branches  
("ATB")

BRANCH: 600, 585 – 8<sup>th</sup> Avenue SW, Calgary, Alberta T2P 1G1

FROM: ALBERTA FOOTHILLS PROPERTIES LTD. (the "Debtor")

## 1. DEFINITIONS

All capitalized terms used in this Agreement and in any schedules attached hereto shall, except where defined herein, be interpreted pursuant to their respective meanings when used in the *Personal Property Security Act* (the "PPSA") of the province or territory referred to in the "Governing Law" section of this Agreement (the "Province") and any regulations issued thereunder.

## 2. SECURITY INTEREST AND CHARGE

- (a) As general and continuing collateral security for the payment and performance of all debts, liabilities and obligations of the Debtor to ATB howsoever arising, both present and future, absolute and contingent, direct and indirect, matured or not, and whether the Debtor be bound alone or jointly or severally with others (the "Indebtedness"), the Debtor hereby assigns and grants a mortgage, pledge, charge and security interest (which, in the case of any real property and any other Collateral not subject to the PPSA, shall be a mortgage as and by way of a floating charge) to and in favour of ATB in all property, assets and undertaking of the Debtor referred to in Schedule "A" (including all such property, assets and undertaking owned or leased by or licensed to the Debtor and in which the Debtor at any time has an interest or to which the Debtor is or at any time may become entitled) and in all Proceeds and renewals thereof, accessions thereto and substitutions therefor (herein collectively called the "Collateral").
- (b) The assignments, mortgages, pledges, charges, security interests and floating charges (if applicable) granted hereunder are hereinafter collectively called the "Security Interests". The Debtor warrants and acknowledges to and in favour of ATB that:
- (i) the Debtor has rights in all existing Collateral and the parties intend the Security Interest hereby created in any of the Debtor's existing property which is subject to the PPSA to attach upon execution and delivery hereof;
  - (ii) the parties intend the Security Interest created in any of the Debtor's after-acquired property which is subject to the PPSA to attach at the same time as it acquires rights in the after-acquired property; and
  - (iii) value has been given.
- (c) For greater certainty, where the Collateral includes all of the Debtor's present and after-acquired personal property, and any of such Collateral is or becomes located on lands or premises leased or subleased by the Debtor, the Collateral includes the Debtor's interest as tenant or lessee under any and all of such leases and subleases of the lands or premises.
- (d) The last day of any term reserved by any lease or agreement to lease is excepted out of the Security Interest and does not form part of the Collateral, but the Debtor shall stand possessed of such last day in trust to assign the same to any person acquiring such term.
- (e) If the grant of the Security Interest in respect of any contract, lease, agreement to lease, license, permit, approval or intellectual property right would result in the termination or breach of such contract, lease, agreement to lease, license, permit, approval or intellectual property right, then the applicable contract, lease, agreement to lease, license, permit, approval or intellectual property right will not be subject to the Security Interest but will be held in

trust by the Debtor for the benefit of ATB and, on exercise by ATB of any of its rights under this Agreement following Default, assigned by the Debtor as directed by ATB.

### 3. CONTINUOUS INTEREST

The Security Interest hereby created is a continuing charge, and shall secure all Indebtedness notwithstanding that the Indebtedness may be fluctuating and even may from time to time and at any time be reduced to a nil balance, and notwithstanding that monies advanced may be repaid and future advances may be made to or to the order of the Debtor or in respect of which the Debtor is liable. The Security Interest maintains priority for all Indebtedness secured hereby whether incurred or arising before or after the creation or registration of any Encumbrance (as hereinafter defined) and notwithstanding that at any time there may not be any Indebtedness then outstanding.

### 4. AUTHORIZED DEALING WITH COLLATERAL

Until Default, or until ATB provides written notice to the contrary to the Debtor, the Debtor may deal with the Collateral in the ordinary course of the Debtor's business in any manner not inconsistent with the provisions of this Agreement, provided that the Debtor shall not, without the prior written consent of ATB:

- (a) sell, exchange, lease, transfer or otherwise dispose of any of the Collateral other than inventory being sold, leased or disposed of for fair market value in the ordinary course of the Debtor's business as it is presently conducted and for the purpose of carrying on that business, or
- (b) create, incur or permit to exist any security interest, mortgage, lien, claim, charge or other encumbrance (herein collectively called the "Encumbrances" and individually, an "Encumbrance") upon any of the Collateral whether it would rank or purport to rank in priority to, equally with or behind the Security Interest granted under this Agreement, except operating leases incurred in the ordinary course of the Debtor's business.

Nothing in this Agreement or otherwise creates a postponement or subordination of any priority of ATB in any of the Collateral in favour of any present or future holder of an Encumbrance (including without limitation, a holder of a lease) in any of the Collateral.

If the Collateral comprises any Investment Property, Chattel Paper, Instrument, Money or Document of Title, the Debtor will, forthwith upon request, deliver the same to ATB and will allow ATB to retain possession of the same. If the Collateral comprises any Investment Property that is a Certificated Security, the Debtor will, upon request, deliver to ATB all Security Certificates relating to such Certificated Security endorsed in blank. If the Collateral comprises any Investment Property that is an Uncertificated Security or a Security Entitlement, the Debtor, on request by ATB, will, or will cause the issuer of such Investment Property to, or will cause the Securities Intermediary that holds such Investment Property to, take all steps as are necessary to give exclusive control (as that term is used in the PPSA) over such Investment Property to ATB on terms and conditions satisfactory to ATB.

### 5. REPRESENTATIONS AND WARRANTIES OF THE DEBTOR

The Debtor hereby represents and warrants to ATB that:

- (a) the Collateral is owned by the Debtor free of all Encumbrances, save for those Encumbrances agreed to in writing between ATB and the Debtor and those shown on Schedule "B" hereto;
- (b) each Account, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same (the "Account Debtor") and the amount represented by the Debtor to ATB from time to time as owing by each Account Debtor will be the correct amount actually and unconditionally owing from such Account Debtor, except for normal cash discounts where applicable;
- (c) as at the date hereof, the description of the Collateral in Schedule "A" hereto is complete and accurate, and, if so requested by ATB, all serial numbers and vehicle identification numbers affixed to or ascribed to any of the Collateral have been provided to ATB;
- (d) the Debtor has full power and authority to conduct its business and own its properties in all jurisdictions in which the Debtor carries on business, except to the extent any failure to do so would not reasonably be expected to have a material adverse effect on its business, operations or financial condition or impair its ability to perform its



obligations hereunder, and has full power and authority to grant to ATB the Security Interest created under this Agreement and to execute, deliver and perform all of its obligations under this Agreement;

- (e) this Agreement has been duly executed and delivered by the Debtor and constitutes a legal, valid and binding obligation of the Debtor, subject only that such enforcement may be limited by bankruptcy, insolvency and any other similar laws of general application affecting creditors' rights generally and by rules of equity limiting enforceability by specific performance;
- (f) there is no provision in any agreement to which the Debtor is a party, nor is there any statute, rule or regulation, or to the knowledge of the Debtor any judgment, decree or order of any court, binding on the Debtor which would be contravened by the execution and delivery of this Agreement;
- (g) there is no litigation, proceeding or dispute pending, or to the knowledge of the Debtor threatened, against or affecting the Debtor or the Collateral, the adverse determination of which might materially and adversely affect the Debtor's business, financial condition or operations or impair the Debtor's ability to perform its obligations hereunder or affect the priority of the Security Interest created hereunder or affect the rights and remedies of ATB hereunder;
- (h) the name of the Debtor is accurately and fully set out below, and the Debtor is not nor has it been known by any other name other than as set out below;
- (i) as at the date hereof, the Collateral is located in the Province and such other jurisdictions indicated on Schedule "A" hereto. With respect to Goods (including Inventory) constituting Collateral, the locations specified in Schedule "A" are accurate and complete save for Goods in transit to such locations and Inventory on lease or consignment; and all buildings, fixtures or Goods about to become fixtures and all crops and all oil, gas or other minerals to be extracted and all timber to be cut which forms part of the Collateral will be situate at one of such locations. For certainty, the Security Interests attach to all Collateral, wherever located, whether or not in jurisdictions indicated on Schedule "A" hereto;
- (j) the Collateral does not consist of Consumer Goods;
- (k) the Collateral, except as previously communicated to ATB in writing, does not consist of Goods that are of a kind that are normally used in more than one jurisdiction; and
- (l) the Debtor's place of business, or if more than one place of business, the Debtor's chief executive office, is located in the Province (unless otherwise advised to ATB in writing).

## 6. COVENANTS OF THE DEBTOR

The Debtor hereby covenants with ATB that:

- (a) the Debtor owns and will maintain the Collateral free of Encumbrances, except those agreed to in writing between ATB and the Debtor and those described in Schedule "B" hereto, or hereafter approved in writing by ATB prior to their creation or assumption, and will defend its title to the Collateral for the benefit of ATB against the claims and demands of all persons;
- (b) the Debtor will maintain the Collateral in good condition and repair and will not allow the value of the Collateral to be materially impaired and will permit ATB or such person as ATB may from time to time appoint to enter into any premises during business hours and on reasonable prior notice (or at such other time as may be reasonably requested by ATB or such person) where the Collateral may be kept to view its condition;
- (c) the Debtor will conduct its business in a proper and business-like manner and will keep proper books of account and records of its business, and upon request will furnish access to its books and records at all reasonable times, and will give to ATB any information which it may reasonably require relating to the Debtor's business;
- (d) the Debtor will punctually pay all rents, taxes, rates and assessments lawfully assessed or imposed upon any property or income of the Debtor and will punctually pay all debts and obligations to labourers, workers, employees, contractors, subcontractors, suppliers of materials and other creditors which, when unpaid, might under applicable federal, provincial, state or other laws have priority over the Security Interest granted by this Agreement;

- (c) the Debtor will punctually make all payments and perform all of its obligations under any contracts under which any material Collateral is held or to which it is subject;
- (f) the Debtor will immediately give notice to ATB of:
  - (i) any change in the location of the Collateral from that specified in Section 5(i) hereof;
  - (ii) the details of any material acquisition or disposition of Collateral (whether authorized by ATB or not), including any additions to or deletions from the listing of serial numbers and vehicle identification numbers specified in Schedule "A" hereto;
  - (iii) any material loss of or damage to Collateral;
  - (iv) the details of any claims or litigation that could adversely affect the Debtor or the Collateral in any material way;

---

- (v) any change of its name or of any trade or business name used by it;
- (vi) any change of its place of business, or if it has more than one place of business, of its chief executive office; and
- (vii) any merger or amalgamation of the Debtor with any person;

and the Debtor agrees not to effect or permit any of the changes referred to in clauses (i), (ii), (v), (vi) or (vii) above unless all filings have been made and all other actions have been taken that are required or desirable (as determined by ATB) in order for ATB to continue to have a valid and perfected Security Interest in respect of the Collateral at all times following such change;

- (g) the Debtor will insure and keep insured the Collateral (or, in the case of any real property, the buildings located on and constituting part of the Collateral) against loss or damage by fire, lightning, explosion, smoke, impact by aircraft or land vehicle, riot, windstorm, hail and other insurable hazards to the extent of its full insurable value, and will maintain all such other insurance as ATB may reasonably require. The loss under the policies of insurance will be made payable to ATB as its interest may appear and will be written by an insurance company approved by ATB on terms reasonably satisfactory to ATB, and the Debtor will provide ATB with copies of the same. The Debtor will pay all premiums and other sums of money necessary for such purposes as they become due and will deliver to ATB proof of said payment, and will not allow anything to be done by which the policies may become vitiated. Upon the happening of any loss or damage the Debtor will furnish at its expense all necessary proofs and will do all necessary acts to enable ATB to obtain payment of the insurance monies;
- (h) the Debtor will observe the requirements of any regulatory or governmental authority with respect to the Collateral, except to the extent any failure to do so would not reasonably be expected to have a material adverse effect on its business, operations or financial condition or affect the priority of the Security Interest created hereunder or affect the rights and remedies of ATB hereunder;
- (i) the Debtor will not remove any of the Collateral from any location specified in Section 5(i) hereof without the prior written consent of ATB;
- (j) ATB may pay or satisfy any Encumbrance created in respect of any Collateral, or any sum necessary to be paid to clear title to such Collateral, and the Debtor agrees to repay the same on demand, plus interest thereon at a rate equal to the highest rate of interest payable by the Debtor on any portion of the Indebtedness;
- (k) ATB, acting reasonably, and the Debtor may from time to time agree in writing as to affirmative and negative covenants and restrictions to be performed and observed by the Debtor in respect of provision of financial information, payment of dividends, capital expenditures, incurring of additional obligations, reduction of capital, distribution of assets, amalgamation, repayment of loans, lending of money, sale and other disposition of assets and/or such other matters as ATB, acting reasonably, and the Debtor may think fit, and the Debtor agrees to perform and observe such affirmative and negative covenants and restrictions to the same extent and effect as if the same were fully set forth in this Agreement; and

- (l) the Debtor will not permit the Collateral constituting personal property to become affixed to real or other personal property (unless the Debtor owns such real or other personal property, and ATB has a Security Interest therein having the same priority as in respect of the Collateral becoming so affixed) without the prior consent of ATB in writing, and will obtain and deliver to ATB such waivers regarding the Collateral as ATB may reasonably request from any owner, landlord or mortgagee of the premises where the Collateral is or may be located.

## 7. DEFAULT

The happening of any of the following shall constitute default (a "Default") under this Agreement:

- (a) the Debtor fails to pay, when due, the Indebtedness or any part thereof;
- (b) the Debtor fails, when due, to perform any obligation (other than payment of the Indebtedness or any part thereof) to ATB, and such failure, if capable of being cured, is not cured within 30 days of the date the Debtor first knew or should have known of such failure;
- (c) the Debtor fails when due to perform any obligation to any other person, and such failure, if capable of being cured, is not cured within 30 days of the date the Debtor first knew or should have known of such failure;
- (d) any representation or warranty made in this Agreement or any other document or report furnished to ATB in respect of the Debtor or the Collateral is false or misleading in any material respect;
- (e) the Debtor ceases or demonstrates an intention to cease to carry on business or disposes or purports to dispose of all or a substantial part of its assets;
- (f) any of the licenses, permits or approvals granted by any government or any government authority and material to the business of the Debtor is withdrawn, cancelled or significantly altered;
- (g) an order is made or a resolution is passed for winding up the Debtor, or a petition is filed for the winding up, dissolution, liquidation or amalgamation of the Debtor or any arrangement or composition of its debts;
- (h) the Debtor becomes insolvent or makes an assignment or proposal or files a notice of intention to make a proposal for the benefit of its creditors, or a bankruptcy petition or receiving order is filed or made against the Debtor, or a Receiver (as hereinafter defined), trustee, custodian or other similar official of the Debtor or any part of its property is appointed, or the Debtor commits or demonstrates an intention to commit any act of bankruptcy, or the Debtor otherwise becomes subject to the provisions of the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangements Act* (Canada) or any other act for the benefit of its creditors;
- (i) any execution, sequestration, extent or distress or any other like process is levied or enforced against any property of the Debtor, or a secured party takes possession of any of the Debtor's property;
- (j) any material adverse change occurs in the financial position of the Debtor; or
- (k) ATB considers that it is insecure, or that the prospect of payment or performance by the Debtor of the Indebtedness is or is about to be impaired, or that the Collateral is or is about to be placed in jeopardy.

## 8. REMEDIES

On Default:

- (a) ATB may seize or otherwise take possession of the Collateral or any part thereof and sell the same by public or private sale at such price and upon such terms as ATB in its sole discretion may determine, and the proceeds of such sale less all costs and expenses of ATB (including costs as between a solicitor and its own client on a full indemnity basis) shall be applied on the Indebtedness and the surplus, if any, shall be disposed of according to law;
- (b) ATB may apply to a court of competent jurisdiction for the sale or foreclosure of any or all of the Collateral;
- (c) ATB may enforce this Agreement by any method provided for in this Agreement, under the PPSA or under any other applicable statute or otherwise as permitted by law, and may dispose of the Collateral by any method permitted by law, including disposal by lease or deferred payment;

- (d) ATB may apply to a court for the appointment of a Receiver, or may appoint by instrument any person or persons, to be a Receiver of any Collateral, and may remove any person so appointed and appoint another in his stead. The term "Receiver" as used in this Agreement includes a Receiver, a Manager and a Receiver-Manager;
- (e) any Receiver will have the power:
- (i) to take possession of any or all of the Collateral and for that purpose to take any proceedings, in the name of the Debtor or otherwise;
  - (ii) to carry on or concur in carrying on the business of the Debtor and enter on, occupy and use (without charge by the Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, the Debtor;
  - (iii) to sell or lease any Collateral;
  - (iv) to make any arrangement or compromise which he may think expedient in the interest of ATB;
  - (v) to pay all liabilities and expenses connected with the Collateral, including the cost of insurance and payment of taxes or other charges incurred in obtaining, maintaining possession of and preserving the Collateral; and the same shall be added to the Indebtedness and secured by the Collateral;
  - (vi) to hold as additional security any increase or profits resulting from the Collateral;
  - (vii) to exercise all rights that ATB has under this Agreement or otherwise at law;
  - (viii) with the consent of ATB in writing, to borrow money for the purpose of carrying on the business of the Debtor or for the maintenance of the Collateral or any part thereof or for other purposes approved by ATB, and any amount so borrowed together with interest thereon shall form a charge upon the Collateral in priority to the Security Interest created by this Agreement;
  - (ix) to enter into and to occupy any premises in which the Debtor has any interest; and
  - (x) to exercise any of the powers and rights of an Entitlement Holder in respect of any Security Entitlement of the Debtor;
- (f) the Debtor hereby appoints each Receiver appointed by ATB to be its attorney to effect the sale or lease of any Collateral and any deed, lease, agreement or other document signed by a Receiver under his seal pursuant hereto will have the same effect as if it were under the seal of the Debtor;
- (g) any Receiver will be deemed (for purposes relating to responsibility for the Receiver's acts or omissions) to be the agent of the Debtor and not of ATB, and the Debtor will be solely responsible for his acts or defaults and for his remuneration and expenses, and ATB will not be in any way responsible for any misconduct or negligence on the part of any Receiver;
- (h) neither ATB nor any civil enforcement agent, sheriff, Receiver or person having similar responsibilities will be required to take any steps to preserve any rights against other parties pursuant to any Collateral, including without limitation, any Investment Property, Chattel Paper or Instrument constituting the Collateral or any part of it. Furthermore, ATB shall have no obligation to take any steps to preserve prior encumbrances on any Collateral whether or not in ATB's possession and shall not be liable or accountable for failure to do so;
- (i) neither ATB nor any civil enforcement agent, sheriff, Receiver or person having similar responsibilities is required to keep Collateral identifiable; and
- (j) ATB may use the Collateral in any manner as it in its sole discretion deems advisable.

ATB may exercise any or all of the foregoing rights and remedies (or any other rights and remedies available to ATB) without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by applicable law) to or on the Debtor or any other person, and the Debtor by this Agreement waives each such demand, presentment, protest, advertisement and notice to the extent permitted by applicable law. None of the rights and

remedies contained herein or otherwise available to ATB will be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time.

## 9. COLLECTION OF DEBTS

After Default, ATB may notify all or any Account Debtors of the Security Interest and may also direct such Account Debtors to make all payments on any Collateral to ATB. The Debtor acknowledges that any payments on or other proceeds of Collateral received by the Debtor from Account Debtors after Default under this Agreement shall be received and held by the Debtor in trust for ATB and shall be turned over to ATB on request. The Debtor shall furnish ATB with all information which may assist in the collection of all Accounts and any other monies or debts due to the Debtor.

## 10. INVESTMENT PROPERTY

If the Collateral at any time includes Investment Property, the Debtor irrevocably authorizes and appoints ATB as its attorney and agent to transfer the same or any part thereof into its own name or that of its nominee(s) so that ATB or its nominee(s) may appear on record as the sole owner thereof after Default. The Debtor waives all rights to receive any notices or communications received by ATB or its nominee(s) as such registered owner. These powers are coupled with an interest and are irrevocable until this Agreement is terminated and the Security Interests created by this Agreement are released.

## 11. COLLATERAL IN POSSESSION OF ATB

The Debtor agrees with ATB that, with respect to any Collateral held in the possession of ATB pursuant to this Agreement ("**Retained Collateral**"):

- (a) ATB's responsibility with regard to the Retained Collateral shall be limited to exercising the same degree of care which it gives to similar property held by ATB at the branch where the Retained Collateral is held. ATB shall not in any event be obligated to protect the Retained Collateral from depreciating or becoming worthless, or to present, protest, collect, enforce or realize on any of the Retained Collateral;
- (b) ATB shall not be obliged to collect or see to the payment of revenue, income, interest or dividends upon any of the Retained Collateral, but all such revenue, income, interest or dividends, if any, when received by the Debtor, shall immediately be paid to ATB. ATB, in its sole discretion, may hold such monies as Collateral or appropriate it to any portion of the Indebtedness;
- (c) the Debtor irrevocably appoints ATB as its attorney and agent, with full powers of substitution, to sell, transfer, surrender, redeem, endorse or otherwise deal with any of the Retained Collateral as ATB, in its sole discretion, may see fit. These powers are coupled with an interest and are irrevocable until this Agreement is terminated and the Security Interests created by this Agreement are released; and
- (d) ATB shall have all rights and powers, but shall not be required to exercise any right or benefit which the holder or owner of the Retained Collateral may at any time have in connection with the Retained Collateral.

## 12. ACCELERATION

In the event of Default, ATB, in its sole discretion, may without demand or notice of any kind, declare all or any of the Indebtedness which is not by its terms payable on demand, to be immediately due and payable. The provisions of this section are not intended in any way to affect any rights of ATB with respect to any Indebtedness which may now or hereafter be payable on demand.

## 13. NOTICE

Any notice or demand required or permitted to be made or given by ATB to the Debtor may be validly served by delivering the same or by mailing the same prepaid registered mail, addressed to the Debtor at the last known address of the Debtor or of any officer or director thereof, as shown on the records of ATB, and in the case of mailing, such notice or demand shall be deemed to have been received by the Debtor on the third business day following the date of mailing.

#### 14. COSTS AND EXPENSES

The Debtor agrees to pay all reasonable costs, charges and expenses incurred by ATB or any Receiver appointed by it (including without restricting the generality of the foregoing, legal costs as between a solicitor and his own client on a full indemnity basis and also an allowance for the time, work and expenses of ATB or any agent, solicitor, or servant of ATB for any purpose herein provided at such rates as ATB may establish in its sole discretion from time to time) in preparing, registering or enforcing this Agreement, taking custody of, preserving, maintaining, repairing, processing, preparing for disposing of the Collateral and in enforcing or collecting the Indebtedness, and all such costs, charges and expenses shall be a first charge on the proceeds of realization, collection or disposition of the Collateral and shall be secured hereby.

#### 15. REAL PROPERTY (ONLY APPLICABLE IF OPTION (b) IN SCHEDULE A HAS BEEN SELECTED OR DEEMED TO HAVE BEEN SELECTED)

(a) For all purposes, including for the purposes of any application to register a crystallized floating charge under the *Land Title Act* (British Columbia) against any real property, the floating charge created by this Agreement shall be ~~crystallized and become a fixed charge against all of the property which is then subject to the floating charge upon~~ the earliest of:

- (i) any one of the events described in Section 7 hereof occurring;
- (ii) a declaration by ATB pursuant to Section 12 or a demand for payment otherwise being made by ATB;
- (iii) ATB taking any action to appoint a Receiver or to enforce its Security Interest or to realize upon all or any part of the Collateral; or
- (iv) ATB taking any action to register the floating charge granted hereunder or any caveat, security notice or other instrument in respect thereof against all or any part of the property which was subject to the floating charge at any real property registry or other similar office.

(b) In accordance with the *Property Law Act* (British Columbia), the doctrine of consolidation applies to this Agreement.

#### 16. REGISTRATION

The Debtor will ensure that this Agreement and all such supplementary and corrective instruments and any additional mortgage and security documents, and all documents, caveats, cautions, security notices and financing statements in respect thereof, are promptly filed and refiled, registered and re-registered and deposited and re-deposited, in such manner, in such offices and places, and at such times and as often as may be required by applicable law or as may be necessary or desirable to perfect and preserve the Security Interests as a first priority mortgage, charge and security interest and the rights conferred or intended to be conferred upon ATB by the Security Interests and will cause to be furnished promptly to ATB evidence satisfactory to ATB of such filing, registering and depositing.

#### 17. MISCELLANEOUS

(a) Without limiting any other right of ATB, whenever the debts and liabilities of the Debtor to ATB are immediately due and payable, or ATB has the right to declare the debts and liabilities to be immediately due and payable, whether or not it has so declared, ATB may, in its sole discretion, set-off against the debts and liabilities any and all monies then owed to the Debtor by ATB in any capacity, whether due or not due, and ATB shall be deemed to have exercised such right of set-off immediately at the time of making its decision to do so even though any charge therefor is made or entered on ATB's records subsequent thereto.

(b) ATB may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with the Debtor, sureties and others and with Collateral and other security as ATB may see fit without prejudice to the liability of the Debtor or to ATB's right to hold and realize the Security Interest. ATB may demand, collect and sue on the Collateral in either the Debtor's or ATB's name, at ATB's option, and may endorse the Debtor's name on any and all cheques, commercial paper and any other instruments pertaining to or constituting Collateral and for this purpose, the Debtor irrevocably authorizes and appoints ATB as its attorney and agent, with full power of substitution. These powers are coupled with an interest and are irrevocable until this Agreement is terminated and the Security Interests created by this Agreement are released.

- (c) Upon the Debtor's failure to perform any of its obligations under this Agreement, ATB may, but shall not be required to, perform any such obligations, and the Debtor will pay to ATB, upon demand, an amount equal to the expense incurred by ATB in so doing with interest thereon from the date such expense is incurred at a rate equal to the highest rate of interest payable by the Debtor on any portion of the Indebtedness.
- (d) This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns. The Debtor may not assign this Agreement, or any of its rights or obligations under this Agreement, without the prior written consent of ATB. In any action brought by an assignee of this Agreement or the Security Interest created hereunder or any part thereof, the Debtor shall not assert against the assignee any claim or defense which the Debtor now has or hereafter may have against ATB.
- (e) If more than one person executes this Agreement as the Debtor:
- (i) the obligations of such persons hereunder shall be joint and several;
  - (ii) the Security Interests shall secure the Indebtedness of each Debtor, whether or not any other Debtor or any other person is also liable therefor; and
  - (iii) the Collateral shall include the interest of any Debtor in the property, assets and undertaking constituting Collateral owned or otherwise held by such Debtor, whether or not any other Debtor also has an interest therein.
- (f) The Debtor acknowledges and agrees that in the event it amalgamates with any other corporation or corporations it is the intention of the parties hereto that the term "Debtor" when used herein shall apply to each of the amalgamating corporations and to the amalgamated corporation, such that the Security Interests granted hereby:
- (i) shall extend and attach to "Collateral" (as that term is herein defined) owned by each of the amalgamating corporations and the amalgamated corporation at the time of amalgamation and to any "Collateral" thereafter owned or acquired by the amalgamated corporation; and
  - (ii) shall secure the "Indebtedness" (as that term is herein defined) of each of the amalgamating corporations and the amalgamated corporation to ATB at the time of amalgamation and any "Indebtedness" of the amalgamated corporation to ATB thereafter arising.
- (g) This Agreement is in addition to and not in substitution for any other security or securities now or hereafter held by ATB and all such other securities shall remain in full force and effect. ATB will not be obliged to exhaust its recourse against the Debtor or any other person or against any other security it may hold in respect of the Indebtedness before realizing upon or otherwise dealing with the Collateral in such manner as ATB may consider desirable.
- (h) The Debtor further agrees to execute and deliver to ATB such further assurances and conveyances and supplemental deeds and instruments as may be necessary to properly carry out the intention of this Agreement, as determined by ATB, or as may be required by ATB from time to time, in each case acting reasonably.
- (i) After Default, ATB may from time to time apply and re-apply, notwithstanding any previous application, in any such manner as it, in its sole discretion, sees fit, any monies received by it from the Debtor or as a result of any enforcement or recovery proceedings, in or toward payment of any portion of the Indebtedness. The Debtor will remain liable for any Indebtedness that is outstanding following realization of all or any part of the Collateral and the application of the proceeds thereof.
- (j) In the event that the Debtor is a body corporate, it is hereby agreed that *The Limitation of Civil Rights Act* (Saskatchewan), or any provision thereof, shall have no application to this Agreement or any agreement or instrument renewing or extending or collateral to this Agreement. In the event that the Debtor is an agricultural corporation within the meaning of *The Saskatchewan Farm Security Act* (Saskatchewan), the Debtor agrees with ATB that all of Part IV (other than Section 46) of that Act shall not apply to the Debtor.
- (k) In the event that the Debtor is a body corporate, the Debtor further agrees that *The Land Contracts (Actions) Act* (Saskatchewan) shall have no application to an action, as defined in that Act, with respect to this Agreement.

- (l) For the purpose of assisting ATB in assessing the creditworthiness of the Debtor or the ownership or description of any of the Collateral, and for the purpose of collecting all or any portion of the Indebtedness owing by the Debtor to ATB, the Debtor consents to the disclosure and release to ATB of personal information, including without limitation, motor vehicle information from Alberta Registries (or any other provincial government department having jurisdiction in that area). This consent is effective from the effective date of this Agreement and shall remain in effect until all Indebtedness is fully satisfied.

## 18. INTERPRETATION

- (a) If a portion of this Agreement is wholly or partially invalid, then this Agreement will be interpreted as if the invalid portion had not been a part of it.
- (b) Where the context so requires, the singular number shall be read as if the plural were expressed and the provisions hereof shall be read with all grammatical changes necessary depending upon the person referred to being male, female or body corporate.

---

## 19. GOVERNING LAW

This Agreement will be interpreted in accordance with the laws of the Province of Alberta, and the Debtor irrevocably agrees that any suit or proceeding with respect to any matters arising out of or in connection with this Agreement may be brought in the courts of such Province or in any court of competent jurisdiction, as ATB may elect, and the Debtor agrees to attorn to the same.

## 20. PARAMOUNTCY

ATB agrees and acknowledges that this Agreement has been granted by the Debtor to ATB pursuant to the commitment letter dated July 9, 2015 among, *inter alios*, the Debtor, as borrower, and ATB, as lender (as amended, modified, supplemented, restated or replaced, from time to time, the "Commitment Letter") and to the extent that any provisions of this Agreement conflict or are inconsistent with any of the provisions of the Commitment Letter, the Commitment Letter shall govern and prevail to resolve such conflict or inconsistency in any and all circumstances, such that the provisions of the Commitment Letter shall be paramount to and supersede the provisions of this Agreement.

## 21. COPY OF AGREEMENT

The Debtor hereby acknowledges receipt of a copy of this Agreement, and waives any right it may have to receive a Financing Statement, Financing Change Statement or Verification Statement relating to it.

**[remainder of page intentionally left blank; signature page follows]**



[signature page to General Security Agreement]

IN WITNESS WHEREOF the Debtor has executed this Agreement this 17 day of August, 2015.

**ALBERTA FOOTHILLS PROPERTIES LTD.**

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Full Address of Debtor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Full List of all prior names by which Debtor has been known (whether by way of name change, amalgamation or otherwise):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE A**

Description of Collateral:

Select appropriate box or boxes. If no box is selected, the Debtor shall be deemed to have selected box (b).

- (a) All of the Debtor's present and after-acquired personal property.
- (b) All of the Debtor's present and after-acquired property, assets and undertaking, including without limitation all present and after-acquired personal property, and all present and after-acquired real, immovable and leasehold property used on or in connection with the real property more particularly described as:
  - I. MERIDIAN 4 RANGE 29 TOWNSHIP 20  
SECTION 16  
QUARTER NORTH WEST  
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS  
EXCEPTING :
 

PLAN	NUMBER	HECTARES	(ACRES)
ROADWAY	63931	0.809	2.00
ROADWAY WIDENING	8210839	0.397	0.980
ROAD	8711147	4.69	11.59

 EXCEPTING THEREOUT ALL MINES AND MINERALS
- (c) All of the Debtor's present and after-acquired personal property except \_\_\_\_\_:
- (d) All \_\_\_\_\_ equipment of whatever kind and wherever situated including, without limitation, all machinery, tools, apparatus, plant, furniture, fixtures and vehicles of whatever nature.
- (e) All accounts, instruments, debts and chattel paper which are now due, owing or accruing due, or which may hereafter become due, owing or accruing due, to the Debtor, together with all records (whether in writing or not) and other documents of any kind which in any way evidence or relate to any or all of the accounts, instruments, debts or chattel paper.
- (f) All of the Debtor's present and after-acquired inventory, wherever located.
- (g) The following described personal property:  
\_\_\_\_\_  
\_\_\_\_\_
- (h) All harvested and unharvested crops whether growing or matured, and whether grain, roots, seeds, leaves or otherwise howsoever, and any interest of the Debtor therein, wherever located.
- (i) All \_\_\_\_\_, male or female, born or unborn, branded or unbranded, of whatever age or stage of growth, wherever located.

Locations of Collateral:

The Collateral is located at the following location(s):

1. MERIDIAN 4 RANGE 29 TOWNSHIP 20  
SECTION 16  
QUARTER NORTH WEST  
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS

EXCEPTING :

PLAN	NUMBER	HECTARES	(ACRES)
ROADWAY	63931	0.809	2.00
ROADWAY WIDENING	8210839	0.397	0.980
ROAD	8711147	4.69	11.59

---

EXCEPTING THEREOUT ALL MINES AND MINERALS

---

---


---

**SCHEDULE B  
PERMITTED ENCUMBRANCES**

The "Permitted Encumbrances" as defined in Commitment Letter.

---

THIS IS EXHIBIT "D"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

## LAND TITLES ACT

### COLLATERAL MORTGAGE

**ALBERTA FOOTHILLS PROPERTIES LTD.** (the "**Mortgagor**") of 3505 – 18<sup>th</sup> Street SW, Calgary, Alberta T2T 4T9, has become or may hereafter become indebted, obligated or liable, whether directly or indirectly, absolutely or contingently, to Alberta Treasury Branches at 600-585 8<sup>th</sup> Avenue, Calgary, Alberta T2P 1G1 (the "**Mortgagee**").

As collateral security for the payment by the Mortgagor of any sums required to be paid from time to time to the Mortgagee and the performance of any covenants and obligations of the Mortgagor to the Mortgagee to be performed from time to time, the Mortgagor has agreed to execute and deliver this mortgage.

The Mortgagor, being or being entitled to become registered as owner of an estate in fee simple possession, subject however to such encumbrances, liens and interests as are notified on Schedule "A" attached hereto (the "**Permitted Encumbrances**"), in those lands located in the Province of Alberta and described in Schedule "A" attached hereto, (which, with the buildings and improvements located thereon, are collectively called the "**Lands**"), in consideration of the premises, COVENANTS with the Mortgagee as follows:

#### 1. PAYMENT

The Mortgagor hereby acknowledges that the Mortgagor is or may become obligated to pay to the Mortgagee the Obligations (as hereinafter defined) from time to time in accordance with and in the manner agreed to between the Mortgagee and the Mortgagor.

"**Obligations**" means, collectively, all amounts owing to the Mortgagee by the Mortgagor from time to time, whether present or future, direct or indirect, absolute or contingent, matured or not, and however arising, and whether pursuant to a revolving line of credit, and whether incurred or arising before, during or after the time that the Mortgagor is the owner of the Lands, including principal, interest and costs.

#### 2. COLLATERAL SECURITY

The Mortgagor hereby encumbers, mortgages and charges the Lands with payment of the Obligations, up to the principal amount of **THIRTY MILLION DOLLARS (\$30,000,000.00)**, plus interest thereon after demand for payment thereunder, both before and after judgment, calculated at a floating rate equal to 5% above the prime lending rate from time to time established by the Mortgagee for commercial loans made by it in Canada in Canadian dollars (the "**Interest Rate**"), together with all further monies which may become payable pursuant to the terms of this mortgage.

This mortgage is given and taken as general and continuing collateral security to secure payment and performance of the Obligations and this mortgage shall obtain priority for all Obligations notwithstanding that at any time or from time to time there may not be any Obligations then outstanding or the amount of the Obligations may fluctuate from time to time. It is acknowledged by the Mortgagor that if the Mortgagee extends a revolving line of credit to the Mortgagor, this mortgage may be held as collateral security for such revolving line of credit up to the principal amount specified above. The accounts and records of the Mortgagee shall, in the absence of manifest error, constitute prima facie evidence of the amount of Obligations outstanding and owing from time to time by the Mortgagor to the Mortgagee.

#### 3. NO MERGER

The taking of a judgment or judgments under any of the covenants contained in this mortgage, in any agreement evidencing the Obligations, or in any other security for payment of the Obligations will not operate as a merger of such covenants or of the Mortgagee's security by way of a charge against the Lands or affect the Mortgagee's right to interest hereunder at the Interest Rate. It is distinctly understood and agreed that the Interest Rate will be payable on the amount of any judgment.

#### 4. TAXES, CLAIMS AND COSTS

(a) The Mortgagor will pay all taxes, rates, levies, assessments and impositions of the municipality or any other taxing authority which are now or may hereafter be levied, charged, assessed, imposed or payable against or in respect of the Lands, or any part thereof, or on this mortgage or on the Mortgagee in respect of this mortgage, when the same become due, and will provide the Mortgagee with the receipts therefor.

(b) The Mortgagor will pay and discharge when due all claims of and obligations to labourers, builders, material suppliers and others and all other claims, debts and obligations which by the laws of Canada or of the Province of Alberta have or might have priority over the security hereby created, and will provide the Mortgagee with the receipts therefor.

- (c) If the Mortgagor fails to pay when due any of the items required to be paid by the Mortgagor pursuant to any provision of this mortgage, the Mortgagee may, but will not be obligated to, pay such items.
- (d) If the Mortgagor fails to repair as provided by this mortgage, the Mortgagee may, but will not be obligated to, at such time or times as it deems necessary and without the concurrence of any other person, make arrangements for maintaining, restoring, repairing, finishing, adding to, or putting in order the Lands, and for managing, improving, and taking care of them.
- (e) All solicitor's, inspector's, valuator's, surveyor's and other fees and expenses for drawing and registering this mortgage, for examining the Lands and the title thereto, and for making or maintaining this mortgage a first charge, or if approved by the Mortgagee, a subsequent charge, on the Lands, and in exercising or enforcing or attempting to enforce or in pursuance of any right, power, remedy or purpose hereunder or subsisting (including legal costs as between a solicitor and his own client on a full indemnity basis and also an allowance for the time, work and expenses of the Mortgagee or of any agent, solicitor or servant of the Mortgagee for any purpose herein provided), together with all sums which the Mortgagee from time to time advances, expends or incurs pursuant to any provision contained in this mortgage, whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Mortgagor or otherwise, are to be secured hereby and will be a charge on the Lands, together with interest thereon at the Interest Rate calculated from the date of advance or expenditure by the Mortgagee to the date of payment to the Mortgagee. All such monies will be payable to the Mortgagee on demand.

## 5. INSURANCE

- (a) The Mortgagor will immediately insure and keep insured during the continuance of this security the Lands to their full insurable value, with an insurer or insurers approved by the Mortgagee, against loss or damage by fire, lightning, explosion, smoke, impact by aircraft or land vehicle, riot, windstorm, hail and such other risks as the Mortgagee requires. The Mortgagor will also obtain such other insurance, of kinds and in amounts required by the Mortgagee (including but not limited to business interruption or rental loss insurance if appropriate). The Mortgagor will not do or permit anything which might impair, reduce or void such insurance.
- (b) The Mortgagor will deliver to the Mortgagee the policy or policies of insurance affecting the Lands with a mortgage clause attached, any loss thereunder to be payable to the Mortgagee.
- (c) The Mortgagor will pay all premiums and sums of money necessary to obtain and maintain such insurance as the same become due and, if requested by the Mortgagee, will immediately after payment deliver to the Mortgagee the receipts therefor. Evidence of the renewal of such insurance will, if requested by the Mortgagee, be provided to the Mortgagee at least seven business days before the insurance then existing expires; otherwise the Mortgagee may insure as herein provided.
- (d) If there is loss or damage from any of the risks insured against, the Mortgagor will furnish proof of loss at its own expense and do all necessary acts to enable the Mortgagee to obtain payment of the insurance monies and in respect of any such insurance monies received by the Mortgagee the Mortgagee may at its option:
  - (i) apply the same in or towards substantially rebuilding, reinstating or repairing the Lands; or
  - (ii) apply the same in the manner set forth in paragraph 21(c) hereof; or
  - (iii) pay the same in whole or in part to the Mortgagor, but no such payment will operate as payment or a novation of the Mortgagor's indebtedness hereunder or as a reduction of this Mortgage; or
  - (iv) apply the same partly in one way and partly in another as the Mortgagee in its sole discretion determines.

To ensure that the Mortgagee may so apply such insurance monies in the manner aforesaid, the Mortgagor assigns and releases to the Mortgagee all rights of the Mortgagor to receive the insurance monies and expressly waives all rights and benefits, to the extent that the same is permitted by law, pursuant to any legislation which provides for a contrary application of such insurance monies.

- (e) The Mortgagor hereby constitutes and appoints the Mortgagee as its attorney for the purpose of demanding, recovering and receiving payment of all insurance monies to which it may become entitled. Without limiting the generality of the foregoing, the Mortgagee may, in the name of the Mortgagor, file proofs of claim with any insurer who insures the Lands, settle or compromise any claim for insurance proceeds in respect of the Lands, commence and prosecute any action for recovery of insurance proceeds in respect of the Lands, and settle or compromise any such action. Notwithstanding the foregoing, it will remain the Mortgagor's responsibility to demand, recover and receive such

payments and nothing herein will render the Mortgagee liable to the Mortgagor for any act done by it in pursuance of the power of attorney granted in this paragraph 5(e) or for its failure to do any act or take any step permitted herein.

- (f) Pending application of any insurance monies by the Mortgagee, the same will be deemed to form part of the Lands and be subject to the charge hereby created.
- (g) If the Mortgagor neglects to keep the Lands or any part of them insured as aforesaid or to pay the said premiums and sums of money necessary for such purpose or to deliver the policy or policies or receipts as aforesaid then the Mortgagee will be entitled, but will not be obliged, to insure the Lands in the manner aforesaid.

## 6. IMPROVEMENTS TO BE FIXTURES

All improvements, fixed or otherwise, now on or hereafter put on the Lands (including but not limited to all buildings, mobile homes, machinery, plant, fences, furnaces, boilers, water heaters, heating, plumbing, air conditioning, cooking, refrigerating, ventilating, lighting and water-heating equipment, window blinds, storm windows, storm doors, window screens and screen doors, and all apparatus and equipment appurtenant thereto, whether movable or stationary, with the proper, usual and necessary gears, construction and appliances) are and will, in addition to other fixtures thereon, be and become fixtures and become part of the realty and of the security and are included in the expression the "Lands".

## 7. USE OF THE LANDS

- (a) The Mortgagor will not commit or permit any act of waste on the Lands or any portion thereof or do or permit anything which might impair the value thereof.
- (b) The Mortgagor will at all times during the continuance of this mortgage well and sufficiently repair, maintain, restore and keep the Lands and every part thereof in good and substantial repair.
- (c) The Mortgagee by its agents, solicitors or inspectors may enter upon the Lands or any part thereof at any reasonable time to view their state of repair.
- (d) If in the opinion of the Mortgagee the Lands or any part thereof are not in a proper state of repair it may serve notice upon the Mortgagor to make such repairs or replacements as the Mortgagee deems proper within a time limited by such notice. If the Mortgagor fails to comply with such notice such failure will constitute a breach of covenant hereunder and in such event the Mortgagee or its agents, employees or contractors may enter upon the Lands and proceed to repair as provided in this mortgage and will have all the remedies set forth herein.
- (e) The Mortgagor will not make, or permit to be made, any alterations or additions to the Lands, or change their present use thereof, without the consent of the Mortgagee.
- (f) If the Mortgagor rents out all or any portion of the Lands, the Mortgagor will faithfully perform any landlord's covenants which it may have undertaken or which it may hereafter undertake as landlord under any such leases and will neither do, neglect to do, nor permit to be done, anything (other than pursuing the enforcement of the terms of such leases in accordance with the terms thereof) which may cause a material modification or termination of any such leases or which may diminish the value of any leases, the rents provided for therein, or the interest of the Mortgagor or Mortgagee herein. The Mortgagor will not assign its interest in any such leases. The Mortgagor will give the Mortgagee immediate notice of any material default or notice of cancellation under any such leases.
- (g) In its ownership, operation and management of the Lands, the Mortgagor will observe and comply with all applicable federal, provincial and municipal by-laws, statutes, ordinances, regulations, orders and restrictions including but not limited to all health, fire safety and land use by-laws and all building codes affecting the Lands.

## 8. CARE OF THE LANDS

- (a) In this mortgage:
  - (i) "environment" includes the Lands and surroundings;
  - (ii) "pollutant" means any substance, class of substances, mixture of substances, form of energy or combination thereof that is capable of entering the environment in a quantity or concentration or under conditions that may cause an immediate or long term adverse effect, and includes anything defined as a hazardous substance, hazardous waste, toxic substance, dangerous goods, hazardous chemical, contaminant, or agricultural chemical under any federal, provincial or municipal laws or by-laws now or hereafter in force;



- (iii) "release" includes the noun or verb form of spill, discharge, spray, inject, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place, exhaust and words of like or similar meaning.
- (b) Neither the Mortgagor, nor, to the knowledge of the Mortgagor after diligent inquiry and investigation, any other person, has ever caused or permitted any pollutant to be placed, handled, stored or disposed of on, under or at the Lands, or on, under or at adjacent lands, except as disclosed to the Mortgagee in writing.
- (c) The Mortgagor will not allow any pollutant to be placed, handled, stored or disposed of on, under or at the Lands without the prior written consent of the Mortgagee, which consent may be arbitrarily or unreasonably withheld.
- (d) In the event of a release, the Mortgagor will promptly take any and all necessary remedial action: provided, however, that the Mortgagor will not, without the Mortgagee's prior written consent, take any such remedial action nor enter into any settlement agreement, consent decree, or other compromise in respect of any related claims, proceedings, lawsuits or action commenced or threatened pursuant to any environmental, health or safety laws or in connection with any third party, if such remedial action, settlement, consent or compromise might impair the value of the Mortgagee's security hereunder. The Mortgagee's prior consent will not, however, be necessary if the release either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not possible to obtain the Mortgagee's consent prior to undertaking such action. If the Mortgagor undertakes any remedial action the Mortgagor will immediately notify the Mortgagee of any such remedial action in compliance with all applicable federal, provincial and municipal laws and by-laws, and in accordance with the orders and directives of all federal, provincial and municipal governmental authorities, to the satisfaction of the Mortgagee.
- (e) The Mortgagor agrees to defend, indemnify, and hold the Mortgagee harmless from and against any and all claims, losses, liabilities, damages and expenses (including, without limitation, legal costs as between a solicitor and his own client on a full indemnity basis, including those arising by reason of any of the aforesaid or an action under this indemnity) arising directly or indirectly from, out of or by reason of any release, environmental complaint, or any environmental health, fire, safety, and land use law governing the Mortgagor, its operations or the Lands. This indemnity will apply notwithstanding any negligent or other contributory conduct by or on the part of the Mortgagee or any one or more other parties or third parties and will survive the payment of and the satisfaction of this mortgage.

**9. COVENANTS UNDER THE LAND TITLES ACT**

- (a) The Mortgagor has good title to the Lands, subject to the Permitted Encumbrances;
- (b) The Mortgagor has the right to mortgage the Lands, subject to the Permitted Encumbrances;
- (c) On default the Mortgagee will have quiet possession of the Lands, subject to the Permitted Encumbrances;
- (d) The Lands are free from all encumbrances except the Permitted Encumbrances;
- (e) The Mortgagor will execute such further assurances of the Lands as may be required by the Mortgagee; and
- (f) The Mortgagor has done no act to encumber the Lands, except the Permitted Encumbrances.

**10. DEFAULT AND ACCELERATION**

The security of this mortgage will, at the option of the Mortgagee, immediately become enforceable and may be enforced without the requirement of any or any further notice from the Mortgagee to the Mortgagor, in each of the following events, each of which shall constitute an event of default:

- (a) if the Mortgagor defaults in payment or in the observance or performance of any of the Obligations, or of any obligation, covenant or liability of the Mortgagor to the Mortgagee contained herein or in another security or agreement executed and delivered by the Mortgagor to the Mortgagee, and, except as otherwise expressly provided, such default continues for more than seven days following written notice from the Mortgagee to pay or to otherwise remedy the same;
- (b) if any warranty, representation or statement made or furnished to the Mortgagee by or on behalf of the Mortgagor in respect of the Lands or the Mortgagor proves to have been false or misleading in any material respect when made or furnished;
- (c) if the Lands are capable of generating income and there is loss or damage to the Lands or any part thereof which materially adversely affects its income-generating ability thereof in the reasonable opinion of the Mortgagee, and such

loss or damage cannot be repaired or replaced so as to re-establish the income-generating ability of the Lands within a reasonable time and in any case within 90 days following such loss or damage;

- (d) if there is a seizure or attachment to or on the Lands;
- (e) if any charge or encumbrance created or issued by the Mortgagor affecting the Lands becomes enforceable and any step is taken to enforce the same;
- (f) if an order is made, an effective resolution passed or a petition is filed for the winding up of the Mortgagor, or a receiver of the Mortgagor or the Lands is appointed;
- (g) if the Mortgagor becomes insolvent, makes a general assignment for the benefit of its creditors or otherwise acknowledges insolvency, or a bankruptcy petition or receiving order is filed or made against the Mortgagor;
- ~~(h) if the Mortgagor ceases or threatens to cease to carry on its business, makes a bulk sale of its assets or commits or threatens to commit any act of bankruptcy;~~
- (i) if any other mortgagee, encumbrancee or other party having a charge on the Lands commences proceedings to enforce its rights or security in such mortgage, encumbrance or charge or takes steps to collect all or any of the income generated from the Lands, or any part thereof;
- (j) if the Mortgagor grants or attempts to grant any form of security to any person other than the Mortgagee ranking or purporting to rank in priority to or equally with the security held by the Mortgagee on the Lands;
- (k) if the Mortgagor abandons the Lands or any part thereof;
- (l) if the Mortgagor operates a business on the Lands and fails to maintain and operate such business as a going concern in a prudent and businesslike manner to the reasonable satisfaction of the Mortgagee; or
- (m) if for any other reason the Mortgagee determines that its security under this mortgage is in jeopardy.

#### 11. POWER OF ATTORNEY

Upon the occurrence of an event of default pursuant to paragraph 10, the following power of attorney will take effect: the Mortgagor hereby irrevocably appoints the Mortgagee, or such person or corporation as may be designated by the Mortgagee, as attorney on behalf of the Mortgagor to sell, lease, mortgage or otherwise dispose of or encumber the Lands or any part thereof, and to execute all instruments and do all acts, matters and things that may be necessary or convenient for carrying out the powers hereby given and for the recovery of all sums of money owing for or in respect of the Lands or any part thereof, and for the enforcement of all contracts and covenants in respect of the Lands or any part thereof, and for the taking and maintaining of possession of and the protection and preservation of the Lands or any part thereof.

#### 12. RIGHT TO SEIZE

If the Mortgagor defaults in performing or fulfilling any of the covenants set forth in this mortgage it will be lawful for, and the Mortgagor hereby grants full power and license to, the Mortgagee to enter, seize and distrain upon the Lands or any part thereof, and by distress warrant to recover by way of rent reserved as in the case of a demise of the Lands as much of the principal and interest and other monies as is from time to time in arrears, together with all costs, charges and expenses attending such levy or distress as in like cases of distress for rent.

#### 13. APPOINTMENT OF RECEIVER OR RECEIVER-MANAGER

- (a) At any time when there is default under any of the provisions of this mortgage the Mortgagee may, with or without entering into possession of the Lands or any part thereof, appoint in writing a receiver or a receiver/manager (the "Receiver") of the Lands or any part thereof and of the rents and revenues therefrom with or without security. The Mortgagee may from time to time by similar writing remove any Receiver and appoint another in its place. In making any such appointment or removal the Mortgagee will be deemed to be acting as agent or attorney for the Mortgagor. The statutory declaration of an officer of the Mortgagee as to the existence of such default will be conclusive evidence of such default. Every Receiver will be the irrevocable assignee or attorney of the Mortgagor for the collection of all rents falling due in respect of the Lands or any part of them. Every Receiver may, in the discretion of the Mortgagee and by writing under its corporate seal, be vested with all or any powers and discretions of the Mortgagee. The Mortgagee may from time to time fix the remuneration of every Receiver, who will be entitled to deduct the same from the income or proceeds of sale of the Lands. Every Receiver will, as far as concerns responsibility for his acts or

omissions, be deemed the agent or attorney of the Mortgagor and in no event the agent of the Mortgagee. The appointment of every Receiver by the Mortgagee will not incur or create any liability on the part of the Mortgagee to the Receiver in any respect and such appointment or anything which may be done by the Receiver or the removal of any Receiver or the termination of any receivership will not have the effect of constituting the Mortgagee a mortgagee in possession of the Lands or any part of them. Every Receiver will from time to time have the power to rent any portion of the Lands which may become vacant for such term and subject to such provisions as it may deem advisable or expedient and in so doing every Receiver will act as the attorney or agent of the Mortgagor and will have the authority to execute under the Mortgagor's seal any lease of any such premises in the name of and on behalf of the Mortgagor. The Mortgagor undertakes to ratify and confirm whatever any Receiver may do in respect of the Lands. Every Receiver will have full power to manage, operate, amend, repair, alter or extend the Lands or any part thereof in the name of the Mortgagor for all purposes including securing the payment of rental for the Lands or any part of them. In exercising such powers, the Receiver will have all incidental powers, including the power to borrow such funds as may be required in connection therewith. No Receiver will be liable to the Mortgagor to account for monies or damages other than cash received by it in respect of the Lands or any part thereof. Out of such cash so received every Receiver will in the following order pay:

- (i) its remuneration,
  - (ii) all payments made or incurred by it in connection with the management, operation, amendment, repair, alteration or extension of the Lands or any part of them, and
  - (iii) interest, principal and other money which may from time to time be charged upon the Lands in priority to this mortgage, and all taxes, insurance premiums and every other expenditure made or incurred by it in respect of the Lands or any part of them.
- (b) Notwithstanding the provisions of subparagraph (a) above, the Mortgagee, in addition to the right of private appointment contained therein, will have the right to apply to a court of competent jurisdiction for the appointment of a receiver or a receiver-manager, whether such application is made prior to or after the appointment of a receiver pursuant to subparagraph (a). The right to apply to a court for the appointment of a receiver or receiver-manager will be in addition to the right to appoint a receiver pursuant to subparagraph (a) and may be exercised at any time by the Mortgagee in its sole discretion.

#### 14. DUE ON SALE

If, without the prior written consent of the Mortgagee:

- (a) the Mortgagor sells, conveys, transfers or assigns all or any part of its interest in the Lands, or
  - (b) where the Mortgagor is a corporation, there is a change in the control of such corporation;
- the full amount then secured by this mortgage shall, at the option of the Mortgagee, become immediately due and payable upon notice to the Mortgagor. For the purposes of this clause:
- (c) a change of control of a corporation will be deemed to occur if:
    - (i) there is a change of control in fact of the corporation within the meaning of section 256(5.1) and related sections of the Income Tax Act (Canada), or
    - (ii) more than 10% of the issued shares of the corporation carrying voting rights in respect of the election of directors of the corporation become owned by a body corporate, person or group of persons other than that or those which own or owns the issued voting shares in the corporation as at the date of this mortgage: and
  - (d) the giving or withholding of consent shall be solely within the Mortgagee's discretion and as a condition of consent the Mortgagee may require or impose such conditions as it sees fit, including but not limited to the requirement that any purchaser, transferee or assignee execute an assumption agreement in favour of the Mortgagee on such terms and conditions as the Mortgagee may require.

#### 15. ASSIGNMENT OF RENTALS

As further security to the Mortgagee for repayment and performance of its other obligations as aforesaid, the Mortgagor hereby assigns, transfers and sets over to the Mortgagee all rents and other revenues from the Lands now or hereafter due or to become due, provided that:

- (a) the Mortgagor will be entitled to receive and recover such rents and other revenues until default under this mortgage;
  - (b) if the Mortgagor defaults, all monies received by the Mortgagor in respect of the Lands after the default will be received by the Mortgagee in trust for the Mortgagee. Immediately after receiving such monies the Mortgagor will pay them to the Mortgagee;
  - (c) the Mortgagee will have no obligation to collect any such rents or other revenues at any time and will be liable only for monies actually received;
  - (d) nothing contained in this clause nor the exercise by the Mortgagee of any rights or remedies arising herefrom will place or be deemed to place the Mortgagor in possession of the Lands;
  - (e) neither this assignment, nor the collection of rents pursuant to it, will be construed as a recognition or acceptance of any lease with respect to the Lands or any part thereof;
- 
- (f) the Mortgagor will not accept any rents in excess of one monthly instalment in advance;
  - (g) whenever requested by the Mortgagee the Mortgagor will assign to the Mortgagee its interest in each specific lease of the Lands or any part thereof and will execute such further specific or general assignments as may be requested by the Mortgagee from time to time; and
  - (h) the Mortgagee or its agents may, but will not be obligated to, register this assignment at such registry offices as the Mortgagee in its discretion deems appropriate.

## 16. CONDOMINIUM

If the Lands are or hereafter become subject to a condominium plan duly created pursuant to the provisions of the *Condominium Property Act* (Alberta) (which, as amended from time to time, together with any legislation substituted therefor is herein collectively called "**the Act**"), then:

- (a) the Mortgagor fully and absolutely assigns, transfers and sets over to the Mortgagee all of the Mortgagor's voting rights now existing or which may hereafter come into existence with respect to the Lands and with respect to the Condominium Corporation of which the Mortgagor is a member by virtue of the Mortgagor's ownership of the condominium unit or units being charged by this mortgage (the "**Condominium Corporation**"), whether such voting rights arise under the Act, under the By laws of the Condominium Corporation, under any agreement with the Condominium Corporation, or otherwise howsoever. The Mortgagor will execute any documentation which in the sole opinion of the Mortgagee is necessary or advisable to give full effect to the foregoing. Provided however, that if the Mortgagee is not present in person or by proxy, or, if present, does not wish to vote, then the Mortgagor may without further authority exercise all voting rights other than the right to vote on any matter requiring a unanimous resolution. Provided further that the Mortgagee may, by written notice to the Mortgagor, terminate all voting rights and privileges of the Mortgagor;
- (b) notwithstanding anything to the contrary herein contained:
  - (i) the Mortgagor will observe and perform every covenant and provision required to be performed under or pursuant to the terms of this mortgage, the Act, the By laws of the Condominium Corporation in effect from time to time, and under any agreement between the Mortgagor and the Condominium Corporation; and
  - (ii) without limiting the generality of the preceding subparagraph, the Mortgagor will pay promptly when due all assessments, instalments or payments owing by it to the Condominium Corporation; and
- (c) where the Mortgagor defaults in the Mortgagor's obligations to contribute to the common expenses assessed or levied by the Condominium Corporation or any authorized agent on its behalf, or any assessment, instalment or payment owing to the Condominium Corporation, or upon breach of any covenant or provision contained in this section, then regardless of any other action or proceeding taken or to be taken by the Condominium Corporation, the Mortgagee, at its option and without notice to the Mortgagor may pay such contribution owing to the Condominium Corporation or rectify any such default or breach by the Mortgagor.

## 17. SUBROGATION

The Mortgagee may pay off any charges or encumbrances against the Lands and in such cases will be subrogated to the rights of, stand in the position of, and be entitled to all the equities of the person so paid off, whether the same are or are not discharged.

18. **PRIOR CHARGE**

If the Mortgagor defaults in the performance of any covenants, payments or conditions contained in any mortgage, lien, agreement for sale, encumbrance, interest in land or other charge or claim upon or with respect to the Lands which has or may have or which may acquire priority to this mortgage (any and all of which are herein called the "Prior Charge") then such default will constitute a default under this mortgage and the Obligations will, at the option of the Mortgagee, become immediately due and payable without notice or demand. The Mortgagee will be entitled but not obligated to pay any arrears or other sums payable under the Prior Charge, or to pay off all or any portion of the amount thereby secured. For the purposes of tendering any arrears or other sums payable to a holder of a Prior Charge, the Mortgagor hereby irrevocably appoints the Mortgagee its agent and irrevocably directs the Mortgagee to tender such monies upon the holder of a Prior Charge in the name of and on behalf of the Mortgagor. In this regard the Mortgagor hereby assigns to the Mortgagee its equity of redemption, if any, with respect to the Prior Charge, together with the statutory right of redemption given to the Mortgagor by the provisions of *The Law of Property Act* (Alberta), as in force and amended from time to time. It is the intention of the parties that the Mortgagee will have the same rights and powers, but not the liabilities, as the Mortgagor under and pursuant to the terms of the Prior Charge so that the Mortgagee will be in a position to take whatever steps are necessary to bring the Prior Charge into good standing once default has occurred thereunder. This assignment is not intended to encompass the Mortgagor's entire interest in the Prior Charge, but only to the extent hereinbefore stipulated. Furthermore, nothing herein contained will create any obligation upon the Mortgagee to cure any default on behalf of the Mortgagor.

19. **PARTIAL RELEASE**

The Mortgagee may release any part of the Lands at any time at its discretion, or may release any person from this mortgage or from any of the covenants herein contained or contained in any collateral security, either with or without any consideration therefor, without responsibility therefor and without releasing any other part of the Lands, any other person or any collateral security.

20. **MORTGAGEE IN POSSESSION**

If the Mortgagee exercises any of its rights hereunder, or goes into possession of the Lands or any part thereof for any purpose under the powers conferred upon it by this mortgage or by law, it will not be deemed to be a mortgagee in possession nor responsible in any way for anything other than monies actually received by it.

21. **APPROPRIATION OF PAYMENTS**

(a) This mortgage is intended as collateral security to secure the Obligations and any other amounts owing under and secured hereby in accordance with the terms hereof, and will secure any ultimate balance owing. No payment by the Mortgagor will reduce the amount secured by this mortgage unless:

- (i) the Mortgagee so agrees in writing; or
- (ii) the Mortgagor's obligations to the Mortgagee do not exceed the principal sum secured as set forth in paragraph 2 of this mortgage, the Mortgagee has no obligation to advance further funds to the Mortgagor or for which the Mortgagor would be liable, and the Mortgagor advises the Mortgagee in writing that the amount paid will reduce the principal sum secured by this mortgage.

(b) Subject to clause (c) below, any amount received by the Mortgagee which reduces the gross amount secured by this mortgage will be applied in whatever manner the Mortgagee thinks fit as between principal, interest or other monies secured by this mortgage.

(c) If, prior to the Mortgagee requiring payment from the Mortgagor under the Obligations, the Mortgagee received:

- (i) a payment from the Mortgagor which reduces the amount secured hereunder;
- (ii) insurance proceeds which are not applied to rebuild, reinstate or repair the Lands or released to the Mortgagor; or
- (iii) any monies as a result of a demand upon or realizing upon the security of this mortgage and which reduces the amount secured by this mortgage;

the Mortgagee will retain the amount received (after deduction of any appropriate costs and expenses in accordance with this mortgage) in a collateral account in substitution for this mortgage to the extent of the amount so retained, and such amount will constitute collateral security to the Mortgagee for the Obligations of the Mortgagor.

## 22. EXPROPRIATION AND CONDEMNATION

- (a) Notwithstanding anything to the contrary contained herein, if the Mortgagee receives a notice of intention to expropriate (as referred to in the *Expropriation Act* (Alberta)) the Lands or the estate or interest of the Mortgagee in the Lands, or the Lands are condemned by any authority having jurisdiction in that regard, then the Obligations will at the option of the Mortgagee automatically become due in full on demand by the Mortgagee.
- (b) The damages, proceeds, consideration and award, whether awarded by the Land Compensation Board, the Surface Rights Board, a court or otherwise, resulting from any expropriation are, to the extent of the full amount of the monies and obligations secured by this mortgage and remaining unpaid on the date of such expropriation, hereby assigned by the Mortgagor to the Mortgagee and will be paid immediately to the Mortgagee.
- (c) The Mortgagor acknowledges that it is aware of the provisions of Sections 49 and 52 of the *Expropriation Act* (Alberta); and any amendments thereto, and hereby waives the benefit of such provisions or any legislation similar thereto or in replacement thereof. The Mortgagor covenants to pay to the Mortgagee the difference between the amount secured under this mortgage and the monies paid by the expropriating authority to the Mortgagee, together with interest thereon at the Interest Rate both before and after maturity, default, acceleration and the obtaining of any judgment by the Mortgagee.

## 23. GENERAL CLAUSES

- (a) Any notice required or permitted to be given to the Mortgagor in connection with this mortgage may be delivered or mailed to it by registered mail addressed to it at its last address as shown on the records of the Mortgagee. Such notice will be conclusively deemed to have been received on the date of delivery or three business days after the date of mailing. No want of notice or publication when required by this mortgage or by any statute, nor any impropriety or irregularity, will invalidate any sale made or purported to be made under this mortgage.
- (b) No waiver by the Mortgagee of the performance of any covenant, proviso, condition or agreement herein contained will take effect or be binding on the Mortgagee unless the same is expressed in writing by the Mortgagee or its duly authorized agent. Such waiver will not nullify such covenant, proviso, condition or agreement, affect its future enforcement or be a waiver of any subsequent breach of the same.
- (c) A default in the due observance or performance by the Mortgagor of any of its covenants contained in the Obligations or in any promissory notes, agreements, or other securities which may now or at any time be held or taken by the Mortgagee in respect of the Obligations will, in addition to its usual effect, have the same effect and give rise to the same rights and remedies as a default under the terms of this mortgage. If the Mortgagee becomes entitled to take legal proceedings of any nature whatsoever against the Mortgagor in respect of this mortgage or in respect of the Obligations or any of the said promissory notes, agreements or other securities, the Mortgagee may either concurrently with such suit, successively or otherwise, pursue any or all of its other remedies. If the Mortgagee pursues one or other of the said remedies this will not constitute an election by the Mortgagee to abandon any of the other remedies.
- (d) The lien and charge hereby created will take effect immediately on the execution of this mortgage, and will secure the full amounts referenced in paragraph 2 hereof.
- (e) If the Mortgagor is a body corporate it will maintain its separate corporate existence and do all such things as are required in order to permit it to carry on its business.
- (f) If the Mortgagor operates a business on the lands or otherwise derives revenue therefrom the Mortgagor will:
  - (i) maintain proper records and books of account with respect to the operation of its business on the Lands and the income and expenses related thereto. The Mortgagor will allow the Mortgagee's representatives at all reasonable times to inspect all such records and books of account as such representatives may deem necessary; and
  - (ii) provide to the Mortgagee such information, financial or otherwise, as to the business and affairs of the Mortgagor, in relation to the Mortgagor being able to observe and perform its obligations to the Mortgagee under this mortgage, as the Mortgagee may from time to time request.
- (g) The Mortgagor will fulfill or comply with such additional terms, conditions and covenants, if any, as are contained on Schedule "B" to this mortgage.

24. **INTERPRETATION; PARAMOUNTCY OF COMMITMENT LETTER**

- (a) If the context so requires, wherever the neuter is used it will include the feminine and masculine, and wherever the singular is used it will include the plural.
- (b) If there is more than one Mortgagor then all covenants and stipulations herein contained or implied will apply to and be binding upon all the Mortgagors jointly and severally; provided always, and it is expressly agreed, that all covenants, provisos, powers, privileges and licenses herein expressed or implied will be binding upon and enure to the benefit of the respective legal personal representatives, successors and assigns of the parties.
- (c) The provisions contained in any schedules to this mortgage are incorporated by reference and form a part of this mortgage as fully as if set out in the body of this mortgage. The covenants and obligations of the Mortgagor and the rights and remedies of the Mortgagee contained in this mortgage are in addition to those granted or implied by statute or otherwise imposed or granted by law.
- (d) If any provision of this mortgage is held to be invalid or unenforceable by a Court of competent jurisdiction it will be deemed to have been deleted from the mortgage and the remaining provisions of this mortgage will continue in full force and effect and be enforceable to the greatest extent permitted by law.
- (e) The headings contained in this mortgage are inserted for ease of reference only and will not be construed so as to limit or restrict the obligations of the Mortgagor or the rights and remedies of the Mortgagee herein.
- (f) Neither the execution nor registration of this mortgage or any additional or other security or documentation will act as a merger of or otherwise affect the enforceability of the Obligations. All agreements and securities now or hereafter entered into by the Mortgagor with or in favour of the Mortgagee, whether related to the within transaction or otherwise, will be in addition to and not in substitution for any agreements or securities previously granted, unless expressly provided to the contrary therein.
- (g) The Mortgagee agrees and acknowledges that this mortgage has been granted by the Mortgagor to the Mortgagee pursuant to the July 9, 2015 letter loan agreement among, *inter alia*, the Mortgagee and the Mortgagor (as amended, modified, supplemented, restated, or replaced, from time to time, collectively, the "Commitment Letter") and to the extent that any provisions of this mortgage conflict or are inconsistent with any of the provisions of the Commitment Letter, the Commitment Letter shall govern and prevail to resolve such conflict or inconsistency in any and all circumstances, such that the provisions of the Commitment Letter shall be paramount to and supersede the provisions of this mortgage.

25. **CHARGE**


For better securing to the Mortgagee the repayment in the manner aforesaid of the said principal sum and interest and other charges and monies hereby secured, and for the due performance by the Mortgagor of all of the covenants, provisos and conditions herein expressed or implied, the Mortgagor hereby mortgages to the Mortgagee all its estate and interest in the Lands.

26. **DISCHARGE**

The Mortgagee will have a reasonable time to provide the Mortgagor with a registrable discharge of this mortgage, upon the Mortgagor becoming entitled to such discharge. All costs related to such discharge will be borne by the Mortgagor to the extent permitted by law.

IN WITNESS WHEREOF the Mortgagor has executed this mortgage on the 17 day of August, 2015.

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**AFFIDAVIT OF EXECUTION**

I, \_\_\_\_\_ of \_\_\_\_\_, in the Province of \_\_\_\_\_, MAKE  
OATH AND SAY:

- 1. That I was personally present and did see \_\_\_\_\_ who is known to me be the person named in the within (or annexed) instrument, duly sign the instrument;

or

I was personally present and did see \_\_\_\_\_ who, on the basis of the identification provided to me, I believe to be the person named in the within (or annexed) instrument, duly sign the instrument;

- 2. That the same was executed at \_\_\_\_\_, in the Province of \_\_\_\_\_, and that I am the subscribing witness thereto.
- 3. That I know the said person(s) named in paragraph 1 and he /she is in my belief of the full age of eighteen years.

SWORN BEFORE ME at the \_\_\_\_\_ of \_\_\_\_\_, in )  
the Province of \_\_\_\_\_ this \_\_\_\_\_ )  
of \_\_\_\_\_, 2015. )  
)  
)  
)  
)  
)

\_\_\_\_\_  
A Commissioner for Oaths/Notary Public in and for the  
Province of \_\_\_\_\_  
(Print or Stamp Name Next to Signature)  
My Commission Expires \_\_\_\_\_

**AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY**

I, \_\_\_\_\_, of \_\_\_\_\_, in the Province of \_\_\_\_\_, MAKE  
OATH AND SAY:

- 1. I am an officer or a director of \_\_\_\_\_ named in the within or annexed instrument.
- 2. I am authorized by the Corporation to execute the instrument without affixing a corporate seal.

SWORN BEFORE ME at the \_\_\_\_\_ of \_\_\_\_\_, in )  
the Province of \_\_\_\_\_ this \_\_\_\_\_ )  
of \_\_\_\_\_, 2015. )  
)  
)  
)  
)  
)

\_\_\_\_\_  
A Commissioner for Oaths/Notary Public in and for the  
Province of \_\_\_\_\_  
(Print or Stamp Name Next to Signature)  
My Commission Expires \_\_\_\_\_



**SCHEDULE "A" - LANDS**

MERIDIAN 4 RANGE 29 TOWNSHIP 20  
SECTION 16  
QUARTER NORTH WEST  
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS  
EXCEPTING :

PLAN	NUMBER	HECTARES	(ACRES)
ROADWAY	63931	0.809	2.00
ROADWAY WIDENING	8210839	0.397	0.980
ROAD	8711147	4.69	11.59

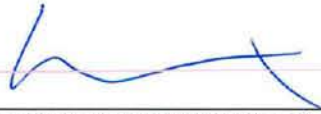
EXCEPTING THEREOUT ALL MINES AND MINERALS

**Permitted Encumbrances**

---

7611DO	20/12/1926	Utility Right of Way
7764LL	20/10/1972	Utility Right of Way
861 150 189	12/09/1986	Caveat re: Right of Way Amending Agreement
871 232 284	17/12/1987	Utility Right of Way
951 122 685	01/06/1995	Utility Right of Way
131 144 933	19/06/2013	Caveat re: Agreement Charging Land ( <i>to be postponed in favour of the Mortgagee</i> )

THIS IS EXHIBIT "E"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

**MORTGAGE AMENDING AGREEMENT**

THIS AGREEMENT made effective as of the 12<sup>th</sup> day of July, 2016,

**BY:**

**ALBERTA FOOTHILLS PROPERTIES LTD.**, a body corporate incorporated under the laws of the Province of Alberta and having an office in the City of Calgary, in the Province of Alberta at 3505 – 18<sup>th</sup> Street SW, Calgary, Alberta, T2T 4T9 (hereinafter referred to as the "**Mortgagor**")

**IN FAVOUR OF:**

**ALBERTA TREASURY BRANCHES**, a Crown corporation pursuant to the *Treasury Branches Act* (Alberta) having an office in Calgary, Alberta 600, 585 – 8<sup>th</sup> Avenue SW, Calgary, Alberta, T2P 1G1 (hereinafter referred to as the "**Mortgagee**")

**WHEREAS** by a Mortgage in writing dated the 17<sup>th</sup> day of August, 2015 (hereinafter referred to as the "**Mortgage**"), the Mortgagor mortgaged to the Mortgagee, upon and in accordance with the terms and conditions therein, those lands legally described in Schedule 1 attached (the "**Lands**");

**AND WHEREAS** the Mortgage was registered against the title to the Lands on the 2<sup>nd</sup> day of September, 2015, as Instrument No. 151 227 181;

**AND WHEREAS** the Mortgagor is the present registered owner of the Lands;

**AND WHEREAS** the Mortgagor and the Mortgagee have agreed to amend the Mortgage and are desirous of embodying and recording such agreements herein.

**NOW THEREFORE** in consideration of the covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confirmed, the Mortgagor and the Mortgagee covenant and agree as follows:

1. The Mortgagor and the Mortgagee covenant and agree that as and from the date hereof, paragraph 2 of the Mortgage is deleted in its entirety and replaced with the following:

**"2. COLLATERAL SECURITY**

The Mortgagor hereby encumbers, mortgages and charges the Lands with payment of the Obligations, up to the principal amount of **TEN MILLION THREE HUNDRED THOUSAND DOLLARS (\$10,300,000.00)**, plus interest thereon after demand for payment thereunder, both before and after judgment, calculated at a floating rate equal to 5% above the prime lending rate from time to time established by the Mortgagee for commercial loans made by it in Canada in Canadian dollars (the "**Interest Rate**"), together with all further monies which may become payable pursuant to the terms of this mortgage.

This mortgage is given and taken as general and continuing collateral security to secure payment and performance of the Obligations and this mortgage shall obtain priority for all Obligations notwithstanding that at any time or from time to time there may not be any Obligations then outstanding or the amount of the Obligations may fluctuate from time to time. It is acknowledged by the Mortgagor that if the Mortgagee extends a revolving line of credit to the Mortgagor, this mortgage may be held as collateral security for such revolving line of credit up to the principal amount specified above. The accounts and records of the Mortgagee shall, in the absence of

manifest error, constitute prima facie evidence of the amount of Obligations outstanding and owing from time to time by the Mortgagor to the Mortgagee."

2. For better securing to the Mortgagee the repayment in the manner provided in the Mortgage as amended hereby, the Mortgagor does hereby mortgage to the Mortgagee all the estate and interest of the Mortgagor in the Lands and the Mortgagor covenants and agrees to pay the Principal Sum and interest as aforesaid, and to observe and perform all other covenants and agreements on the part of the Mortgagor to be observed and performed as provided in the Mortgage, as amended.
3. Nothing herein contained shall in any way create any merger or alter, affect or prejudice the rights or remedies of the Mortgagee as regards any security collateral to the Mortgage, or as against any person having any interest in or claims upon the Lands, or who may be in any way liable as surety or otherwise for payment of the monies due under the Mortgage, or any part thereof, or the rights or remedies of any such person, and all such rights and remedies are hereby expressly reserved and preserved.
4. The Mortgagor further covenants and agrees as follows:
  - (a) neither this Agreement nor any prior amendment, extension or renewal of the Mortgage shall be or constitute an accord and satisfaction between the Mortgagor and the Mortgagee with respect to the indebtedness under the Mortgage and neither the Mortgage nor any collateral security (including without limitation any guarantee, assignment of rents and leases, or chattel mortgage) shall in any way be discharged, released, or prejudiced by this Agreement (or any prior amendment, extension or renewal) and shall in no way be affected by this Agreement (or any prior amendment, extension or renewal) save to the extent that the Mortgage is hereby expressly modified and that the Mortgage and any collateral security shall continue in full force and effect and shall secure all obligations of the Mortgagor under the Mortgage as modified hereunder as a charge upon the Lands;
  - (b) this Agreement and any prior amendment, extension or renewal are intended to be and shall operate as and constitute a mortgage extension agreement and not a novation of the Mortgage or a new mortgage;
  - (c) without limiting the generality of the preceding clause (b), nothing in this Agreement or in any prior extension or renewal of the Mortgage shall be or constitute or operate as a release or waiver of any personal covenants contained in the Mortgage or any guarantees thereof, or a release or discharge of any other surety of or for the Mortgage;
  - (d) the Mortgage shall read such that the terms of repayment of and the rate of interest payable under the Mortgage as hereby amended, may be varied, extended, increased or decreased, or otherwise amended as the Mortgagee and the then registered owner of the Lands may determine and agree in writing, from time to time and whether before, as at, or after the then maturity date of the Mortgage, as hereby amended; and all of the same without prejudice to the rights of the Mortgagee against either the Mortgagor or any other person, liable for the payment of the monies secured by the Mortgage, as hereby amended; further any alteration aforesaid may but need not be registered against the Lands and whether or not so registered, the Mortgage, as hereby amended, as so altered, shall rank in priority to any and all interests registered against the Lands subsequent to the registration of the Mortgage document as hereby amended, as if and to the extent that said alteration had been registered before the registration of any of said subsequent interests; and

- (e) all covenants and agreements contained in or implied from the Mortgage shall continue in force and apply except as amended hereby and the Mortgage as amended is hereby ratified.
5. The Mortgagor shall ensure that all levied property taxes are paid, that there are no arrears under the Mortgage and provide to the Mortgagee any and all such postponements and other assurances and instruments as the Mortgagee may require to secure the same priority for this Agreement as is enjoyed by the Mortgage; and failing the aforesaid being done, the Mortgagee at its sole option may declare this Agreement to be null and void.
- 
6. The Mortgagor shall pay all reasonable legal fees and disbursements of the solicitor for the Mortgagee in connection with the preparation of this Agreement and the renewal and amendments resulting therefrom.
7. This Agreement shall enure to the benefit of and be binding upon the successors and assigns of the Mortgagor and the Mortgagee, respectively, and wherever the singular or the masculine is used, the same shall be construed as meaning the plural or feminine or a body politic or corporate where the context or the parties hereto so require, and where a party is more than one person, all covenants shall be deemed to be joint and several.

**IN WITNESS WHEREOF** the Mortgagor has caused this Agreement to be executed as of the day and year first above written.

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per: \_\_\_\_\_

  
Name: Ryan Atkins  
Title: Director

**SCHEDULE 1**

**THE LANDS**

MERIDIAN 4 RANGE 29 TOWNSHIP 20  
SECTION 16  
QUARTER NORTH WEST  
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS  
EXCEPTING :

PLAN	NUMBER	HECTARES	(ACRES)
ROADWAY	63931	0.809	2.00
ROADWAY WIDENING	8210839	0.397	0.980
ROAD	<del>8711147</del>	<del>4.69</del>	<del>11.59</del>

---

EXCEPTING THEREOUT ALL MINES AND MINERALS

THIS IS EXHIBIT "F"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426



**MORTGAGE AMENDING AGREEMENT**

**THIS AGREEMENT** made effective as of the \_\_\_\_\_ day of September, 2017,

**BY:**

**ALBERTA FOOTHILLS PROPERTIES LTD.**, a body corporate incorporated under the laws of the Province of Alberta and having an office in the City of Calgary, in the Province of Alberta at 3505 – 18<sup>th</sup> Street SW, Calgary, Alberta, T2T 4T9 (hereinafter referred to as the "**Mortgagor**")

**IN FAVOUR OF:**

**ALBERTA TREASURY BRANCHES**, a Crown corporation pursuant to the *Treasury Branches Act* (Alberta) having an office in Calgary, Alberta 600, 585 – 8<sup>th</sup> Avenue SW, Calgary, Alberta, T2P 1G1 (hereinafter referred to as the "**Mortgagee**")

**WHEREAS** by a mortgage in writing dated the 17<sup>th</sup> day of August, 2015, as amended by the mortgage amending agreement dated July 12, 2016 (as amended, the "**Mortgage**"), the Mortgagor mortgaged to the Mortgagee, upon and in accordance with the terms and conditions therein, those lands legally described in Schedule 1 attached (the "**Lands**");

**AND WHEREAS** the Mortgage was registered against the title to the Lands on the 2<sup>nd</sup> day of September, 2015, as Instrument No. 151 227 181 and on the 28<sup>th</sup> day of July, 2016, as Instrument No. 161 177 514;

**AND WHEREAS** the Mortgagor is the present registered owner of the Lands;

**AND WHEREAS** the Mortgagor and the Mortgagee have agreed to amend the Mortgage and are desirous of embodying and recording such agreements herein.

**NOW THEREFORE** in consideration of the covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confirmed, the Mortgagor and the Mortgagee covenant and agree as follows:

1. The Mortgagor and the Mortgagee covenant and agree that as and from the date hereof, paragraph 2 of the Mortgage is deleted in its entirety and replaced with the following:

**"2. COLLATERAL SECURITY**

The Mortgagor hereby encumbers, mortgages and charges the Lands with payment of the Obligations, up to the principal amount of **THIRTY MILLION DOLLARS** (\$30,000,000.00), plus interest thereon after demand for payment thereunder, both before and after judgment, calculated at a floating rate equal to 5% above the prime lending rate from time to time established by the Mortgagee for commercial loans made by it in Canada in Canadian dollars (the "**Interest Rate**"), together with all further monies which may become payable pursuant to the terms of this mortgage.

This mortgage is given and taken as general and continuing collateral security to secure payment and performance of the Obligations and this mortgage shall obtain priority for all Obligations notwithstanding that at any time or from time to time there may not be any Obligations then outstanding or the amount of the Obligations may fluctuate from time to time. It is acknowledged by the Mortgagor that if the Mortgagee extends a revolving line of credit to the Mortgagor, this mortgage may be held as collateral security for such revolving line of credit up to the principal



amount specified above. The accounts and records of the Mortgagee shall, in the absence of manifest error, constitute prima facie evidence of the amount of Obligations outstanding and owing from time to time by the Mortgagor to the Mortgagee.”

2. For better securing to the Mortgagee the repayment in the manner provided in the Mortgage as amended hereby, the Mortgagor does hereby mortgage to the Mortgagee all the estate and interest of the Mortgagor in the Lands and the Mortgagor covenants and agrees to pay the Principal Sum and interest as aforesaid, and to observe and perform all other covenants and agreements on the part of the Mortgagor to be observed and performed as provided in the Mortgage, as amended.

---

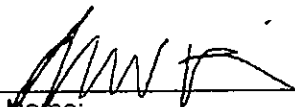
3. Nothing herein contained shall in any way create any merger or alter, affect or prejudice the rights or remedies of the Mortgagee as regards any security collateral to the Mortgage, or as against any person having any interest in or claims upon the Lands, or who may be in any way liable as surety or otherwise for payment of the monies due under the Mortgage, or any part thereof, or the rights or remedies of any such person, and all such rights and remedies are hereby expressly reserved and preserved.
4. The Mortgagor further covenants and agrees as follows:
  - (a) neither this Agreement nor any prior amendment, extension or renewal of the Mortgage shall be or constitute an accord and satisfaction between the Mortgagor and the Mortgagee with respect to the indebtedness under the Mortgage and neither the Mortgage nor any collateral security (including without limitation any guarantee, assignment of rents and leases, or chattel mortgage) shall in any way be discharged, released, or prejudiced by this Agreement (or any prior amendment, extension or renewal) and shall in no way be affected by this Agreement (or any prior amendment, extension or renewal) save to the extent that the Mortgage is hereby expressly modified and that the Mortgage and any collateral security shall continue in full force and effect and shall secure all obligations of the Mortgagor under the Mortgage as modified hereunder as a charge upon the Lands;
  - (b) this Agreement and any prior amendment, extension or renewal are intended to be and shall operate as and constitute a mortgage extension agreement and not a novation of the Mortgage or a new mortgage;
  - (c) without limiting the generality of the preceding clause (b), nothing in this Agreement or in any prior extension or renewal of the Mortgage shall be or constitute or operate as a release or waiver of any personal covenants contained in the Mortgage or any guarantees thereof, or a release or discharge of any other surety of or for the Mortgage;
  - (d) the Mortgage shall read such that the terms of repayment of and the rate of interest payable under the Mortgage as hereby amended, may be varied, extended, increased or decreased, or otherwise amended as the Mortgagee and the then registered owner of the Lands may determine and agree in writing, from time to time and whether before, as at, or after the then maturity date of the Mortgage, as hereby amended; and all of the same without prejudice to the rights of the Mortgagee against either the Mortgagor or any other person, liable for the payment of the monies secured by the Mortgage, as hereby amended; further any alteration aforesaid may but need not be registered against the Lands and whether or not so registered, the Mortgage, as hereby amended, as so altered, shall rank in priority to any and all interests registered against the Lands subsequent to the registration of the Mortgage document as hereby amended, as if and

to the extent that said alteration had been registered before the registration of any of said subsequent interests; and

- (e) all covenants and agreements contained in or implied from the Mortgage shall continue in force and apply except as amended hereby and the Mortgage as amended is hereby ratified.
- 5. The Mortgagor shall ensure that all levied property taxes are paid, that there are no arrears under the Mortgage and provide to the Mortgagee any and all such postponements and other assurances and instruments as the Mortgagee may require to secure the same priority for this Agreement as is enjoyed by the Mortgage; and failing the aforesaid being done, the Mortgagee at its sole option may declare this Agreement to be null and void.
- 6. The Mortgagor shall pay all reasonable legal fees and disbursements of the solicitor for the Mortgagee in connection with the preparation of this Agreement and the renewal and amendments resulting therefrom.
- 7. This Agreement shall enure to the benefit of and be binding upon the successors and assigns of the Mortgagor and the Mortgagee, respectively, and wherever the singular or the masculine is used, the same shall be construed as meaning the plural or feminine or a body politic or corporate where the context or the parties hereto so require, and where a party is more than one person, all covenants shall be deemed to be joint and several.

**IN WITNESS WHEREOF** the Mortgagor has caused this Agreement to be executed as of the day and year first above written.

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE 1**

**THE LANDS**

MERIDIAN 4 RANGE 29 TOWNSHIP 20  
SECTION 16  
QUARTER NORTH WEST  
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS  
EXCEPTING :

PLAN	NUMBER	HECTARES	(ACRES)
ROADWAY	6393I	0.809	2.00
ROADWAY WIDENING	8210839	0.397	0.980
ROAD	8711147	4.69	11.59

EXCEPTING THEREOUT ALL MINES AND MINERALS

THIS IS EXHIBIT "G"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

## GENERAL ASSIGNMENT OF SALES AGREEMENTS

### Section 1. Assignment

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **ALBERTA FOOTHILLS PROPERTIES LTD.**, a corporation incorporated under the laws of the Province of Alberta, having an office at 3505 – 18<sup>th</sup> Street SW, Calgary, Alberta T2T 4T9 (hereinafter, called the "**undersigned**") hereby grants a security interest in and assigns and transfers absolutely to **ALBERTA TREASURY BRANCHES**, a Crown Corporation under the *Alberta Treasury Branches Act* (Alberta), having an office at 600, 585-8<sup>th</sup> Avenue S.W., Calgary, Alberta T2P 1G1 (hereinafter called the "**Lender**"), all sales agreements, offers to purchase, accounts, debts, money, chattel paper, instruments, intangibles and choses in action of every nature and kind now due, owing or accruing due or which may hereafter become due or owing to the undersigned, ~~pursuant to or by virtue of the undersigned's ownership, development and sale of the industrial project situate on real property described on Schedule "A" hereto and made a part hereof (the "Project"), including all additions, or amendments to, and renewals or replacements of such contracts, if any (such contracts including all additions, amendments, renewals and replacements being hereinafter referred to as the "Contracts"), together with all proceeds, judgments, claims for insurance, securities, rights and benefits (including advance payments, drawbacks and deposits in respect of tender) for the sales agreements, offers to purchase, accounts, debts, money and choses in action hereby assigned and transferred.~~

### Section 2. Authority of Lender

The undersigned expressly acknowledges the right of the Lender, as absolute assignee of the Contracts:

- (a) to realize, demand, recover, sue for, deal with and receive all debts, money and securities hereby assigned, or intended to be assigned, on such terms, in such manner, and at such times as the Lender may in its absolute discretion deem reasonable;
- (b) to sign, execute and deliver good and sufficient receipts, acquittances and discharges therefor; with full power and authority to compromise, settle and adjust on such terms, in such manner and at such times as the Lender may determine, and the Lender may at any time and from time to time, in its sole and absolute discretion, appropriate the proceeds of such debts, moneys, choses in action, securities, benefits and rights, and after actual receipt by the Lender of any such proceeds, and after deducting all reasonable costs, charges and expenses involved in the collection of the same, apply the same against any part of the indebtedness and liabilities of the undersigned pursuant to the Loan Agreement (as defined in Section 9 hereof), without prejudice to any claim for any deficiency thereunder, and the surplus, if any, shall be paid to, or as directed in writing by, the undersigned or as required from time to time by a court of competent jurisdiction; **provided, however**, that the Lender shall not be bound to collect, or be liable for any failure to collect or delay in collecting, the accounts, debts, money or choses in action hereby assigned, or any part thereof, or for any failure to realize or any delay in realizing, on the securities or choses in action hereby assigned, and shall not be bound to institute proceedings for the purposes of collecting or realizing the same, or be liable or responsible for any loss or damage which may accrue by reason of any action or failure to take action in respect of the collection of the said debts or money or the realization of the said securities or choses in action; and
- (c) to, in addition to those rights granted herein and in any other Loan Document now or hereafter in effect between the undersigned and the Lender and in addition to any other rights the Lender may have at law or in equity, have all rights and remedies of a secured party under the PPSA (as defined hereunder).

**Section 3. Delivery of Documents**

The undersigned hereby undertakes to deliver to the Lender, at the request of the Lender, all Contracts and do such other acts and things as may be required by the Lender from time to time to give effect to this assignment and the Lender is hereby appointed the attorney irrevocably for the undersigned to take such action as may be necessary in the name of the undersigned to effectuate this assignment and transfer.

**Section 4. Covenants**

The undersigned covenants and agrees that it shall use its best efforts to enter into contracts and agreements in the future for the development and sale of the Project at the best prices and on the best terms as the undersigned shall determine in its good faith and judgment are reasonably obtainable in the circumstances and, subject to the Loan Agreement, it shall not be necessary for the Lender to join in any Contract or any amendment thereof, provided, however, that the undersigned will not consent to, agree to, or permit any material amendment or modification to, nor replacement, extension, renewal, cancellation or termination (except the termination in accordance with its terms) or waive any default under any Contract of the undersigned, unless such amendment, modification, replacement, extension, renewal, cancellation, termination, waiver or new contract:

- (a) is required under any legislation, order or regulation of a governmental body or agency having jurisdiction; or
- (b) is made, without the consent or approval of the undersigned by third parties over whom the undersigned has no control; or
- (c) is not adverse in any material manner to the interest of the Lender.

**Section 5. Performance of Contracts**

The undersigned will duly perform all obligations binding on it under each Contract in accordance with the terms thereof and will take all appropriate measures to enforce the performance under each Contract of the obligations of the parties thereunder. All proceeds from any Contract received by the undersigned shall be received by the undersigned as trustee for the Lender, and shall be paid over to the Lender on the Lender's demand therefor.

**Section 6. Continuing Collateral Security**

This assignment and transfer shall be a continuing collateral security for the payment of all indebtedness and liability, present and future advances, direct or indirect, absolute and contingent, matured and not matured of the undersigned pursuant to the Loan Agreement and it is given in addition to and not in substitution for any other security taken by the Lender in respect of the said indebtedness and liability, and this assignment shall not operate as a merger of any simple contract debt or in any way suspend or affect the rights and remedies of the Lender in respect of the said indebtedness and liability, or any part thereof, nor shall it affect any securities which the Lender now has or may hereafter hold in respect of the said indebtedness and liability or any part thereof.

**Section 7. Successors**

This assignment shall be binding on the undersigned, its successors and assigns and shall enure to the benefit of the Lender, its successors and assigns.

**Section 8. Rights Unconditional**

All rights of the Lender and all obligations of the undersigned hereunder shall be absolute and unconditional irrespective of:

- (a) any change in the time, manner or place of payment, or payment of, or in any other term of, any of the obligations, present or future, direct or indirect, absolute or contingent, matured or not, of the undersigned to the Lender under the Loan Agreement;
- (b) any exchange, release or non-perfection of any other collateral, or any release or amendment or waiver of or consent to departure from this assignment, the Loan Agreement or any document executed in connection therewith; or
- (c) any other circumstances which might otherwise constitute a defence available to, or a discharge of the undersigned in respect of enforcement by the Lender of its rights and remedies under any of the Loan Agreement or any document or instrument relating to the foregoing.

**Section 9. Defined Terms**

The capitalized terms used herein which are not defined herein shall have the same meanings as are ascribed to them in the commitment letter dated July 9, 2015 (as amended, modified, supplemented, restated or replaced, from time to time, the "**Loan Agreement**") among, *inter alios*, the undersigned, as borrower, and the Lender, as lender. Certain other terms such as "**accounts**", "**chattel paper**", "**collateral**", "**financing statement**", "**financing change statement**", "**future advances**", "**instruments**", "**intangible**", "**money**", "**proceeds**", "**secured party**" and "**security interest**" shall have the meanings ascribed to them in the *Personal Property Security Act* (Alberta) and all regulations pursuant thereto, as amended or supplemented from time to time (the "**PPSA**").

**Section 10. Governing Law**

This assignment shall be governed by, and construed in accordance with, the laws in force in the Province of Alberta applicable to contracts made in and to be wholly performed in such Province.

**Section 11. Attachment**

The security interest created hereby is intended to attach when this assignment is executed by the undersigned and delivered to the Lender.

**Section 12. Copy of Assignment**

The undersigned hereby:

- (a) acknowledges receipt of a copy of this assignment; and
- (b) waives the undersigned's right to receive a copy of any financing statement or financing change statement registered by the Lender pursuant to the PPSA.

**[remainder of page intentionally left blank; signature page follows]**

DATED at the City of Calgary, in the Province of Alberta as of the 17 day of August, 2015.

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

---

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**SCHEDULE "A"**  
**TO THE GENERAL ASSIGNMENT OF SALES AGREEMENTS**

**THE PROJECT**

MERIDIAN 4 RANGE 29 TOWNSHIP 20  
SECTION 16  
QUARTER NORTH WEST  
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS  
EXCEPTING :

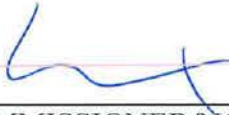
PLAN	NUMBER	HECTARES	(ACRES)
ROADWAY	63931	0.809	2.00
ROADWAY WIDENING	8210839	0.397	0.980
ROAD	8711147	4.69	11.59

EXCEPTING THEREOUT ALL MINES AND MINERALS

THIS IS EXHIBIT "H"  
Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

## SPECIFIC ASSIGNMENT OF CONSTRUCTION CONTRACTS

THIS SPECIFIC ASSIGNMENT OF CONSTRUCTION CONTRACTS (this "Assignment Agreement") dated as of the 17 day of August, 2015.

BETWEEN:

ALBERTA FOOTHILLS PROPERTIES LTD., a body corporate incorporated under the laws of the Province of Alberta (hereinafter referred to as the "Borrower")

- and -

ALBERTA TREASURY BRANCHES, a Crown corporation pursuant to the *Alberta Treasury Branches Act* (Alberta) having an office in the City of Calgary, in the Province of Alberta (hereinafter called the "Lender")

WHEREAS the Borrower, as borrower, has entered into a commitment letter with the Lender, as lender, dated July 9, 2015 (as amended, supplemented, or restated, from time to time, the "Loan Agreement"); and

WHEREAS the Borrower has agreed to provide to the Lender, *inter alia*, this Assignment Agreement as collateral security for the obligations of the Borrower under the Loan Agreement.

NOW THEREFORE, in consideration of the mutual covenants in the Loan Agreement and herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Defined Terms

Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Agreement.

2. Assignment

(a) As continuing collateral security for the due and timely satisfaction and performance of the Borrower's obligations under the Loan Agreement, the Borrower hereby transfers, assigns and grants a security interest in, to and in favour of the Lender, of all the Borrower's present and future rights, title and interest whatsoever in and to the agreements and choses-in-action described in Schedule "A" hereto and all amendments, supplements, modifications or extensions thereof (collectively, the "Assigned Contracts") including, without limiting the generality of the foregoing, all of the Borrower's rights, claims, privileges, benefits and advantages comprised therein and arising therefrom, other than the Borrower's entitlement to receive remuneration as lessor.

(b) This Assignment Agreement shall not in any way suspend or affect the rights or remedies of the Lender in respect of the obligations of the Borrower under the Loan Agreement, or any part thereof, nor shall it affect any securities which the Lender now has or hereafter may hold in respect of the Loan Agreement or any part thereof.

3. Rights of the Lender

If the Lender shall become entitled to exercise the remedies referred to in the Loan Agreement, in addition to any other remedies permitted by contract, law or otherwise, the Lender shall at any time thereafter have the right to fulfill and enforce all rights and remedies of or in respect of the Borrower under

the Assigned Contracts and any such right or remedy may be exercised separately from or in combination with any right or remedy the Lender may have and shall be in addition to and not in substitution for any other rights and remedies to the Lender. The Lender shall not be bound to exercise such right or remedy or otherwise deal with all or any part of the Assigned Contracts or otherwise realize any proceeds therefrom and shall not be responsible for any loss occasioned by any realization or other dealing with or other failure to realize or otherwise deal with all or any part of the Assigned Contracts. To the extent permitted by law, the Borrower hereby expressly waives each and every formality prescribed by law in relation to any sale, transfer or delivery of the Assigned Contracts.

4. Concerning Liability

Notwithstanding anything contained herein to the contrary, the Borrower shall remain liable to observe and perform all of the terms and provisions on its part to be observed and performed under the Assigned Contracts with no liability whatsoever accruing to the Lender.

5. Representation and Warranties of the Borrower

The Borrower hereby represents, warrants and covenants to the Lender that:

- (a) it has made no prior assignment of the Assigned Contracts;
- (b) the Assigned Contracts have not been amended, supplemented, modified, extended, renewed or replaced other than as disclosed in Schedule "A";
- (c) the Assigned Contracts are in full force and effect and shall not be amended, altered or released without the Lender's prior written consent;
- (d) the Borrower has not received notice of any default under the Assigned Contracts;
- (e) the Borrower is not aware that any parties to the Assigned Contracts are in default under the Assigned Contracts; and
- (f) all necessary approvals and consents have been obtained in order to permit the Borrower to subject to the security interest of this Assignment Agreement the interest of the Borrower in the Assigned Contracts.

6. No Further Assignment by the Borrower; No Termination of Assigned Contracts

- (a) Neither the Assigned Contracts nor any interest of the Borrower therein shall be transferred, assigned or otherwise alienated or encumbered by the Borrower in favour of any person except in accordance with the provisions of the Loan Agreement.
- (b) The Borrower shall not terminate the Assigned Contracts nor agree to such termination by any party thereto without the express prior written consent of the Lender.

7. Application of Proceeds

Any proceeds received by the Lender in respect of the Assigned Contracts after the Lender has become entitled to exercise the remedies referred to in the Loan Agreement, shall be applied by the Lender in accordance with the provisions of the Loan Agreement.

8. No Merger of Obligations

This Assignment Agreement shall not operate by way of merger of any of the obligations of the Borrower under the Loan Agreement, and no judgment recovered by the Lender shall operate by way of

merger of or in any way affect the security hereby constituted which is in addition to and not in substitution for and shall not in any way prejudice any other security now heretofore or hereafter held by the Lender.

9. Termination and Release

Upon payment, satisfaction, settlement or extinguishment of the Borrower's obligations under the Loan Agreement in full, or if the Borrower is otherwise entitled to a release of this Assignment Agreement in accordance with the terms of the Loan Agreement, the Lender, upon request in writing by the Borrower and at the Borrower's expense, shall execute and deliver to the Borrower such deeds or other instruments as shall be requisite to discharge the security interest hereby constituted and to re-assign and transfer to the Borrower all of the right, title and interest of the Lender in and to the Assigned Contracts.

10. Further Assurances

The Borrower shall, at its expense, make, execute and, deliver or cause to be made, executed and delivered all such further acts, documents and things as the Lender may reasonably require for the purposes of giving effect to this Assignment Agreement including, without limiting the generality of the foregoing, for the purpose of the facilitating the enforcement of the security over the Assigned Contracts hereby constituted and for the purpose of exercising all powers, authorities and discretion hereby conferred upon or acquired by the Lender, all immediately upon the request of the Lender.

11. No Duty to Inquire

No person dealing with the Lender or its agents including, without limitation, the parties to the Assigned Contracts, shall be concerned to inquire whether the powers which the Lender or such agents are purporting to exercise under this Assignment Agreement have become exercisable, or whether any money remains due and owing by the Borrower to the Lender, or as to the necessity or expediency of, or the performance of or compliance with, the stipulations and conditions subject to which any realization shall be made, or otherwise as to the propriety or regularity of any realization or of any other dealing by the Lender with the Assigned Contracts or to see to the application of any money paid to the Lender; and in the absence of fraud on the part of such person, such dealings shall be deemed, insofar as regards the safety and protection of such person, to be within the powers hereby conferred and to be valid and effectual accordingly.

12. Severability

In the event that any provision of this Assignment Agreement shall be invalid, illegal or unenforceable in any respect in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Assignment Agreement.

13. Amendments, Etc.

No amendment or waiver of any provision of this Assignment Agreement, nor consent of the Borrower to any departure herefrom, shall in any event be effective unless the same shall be in writing and signed by the Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

14. Governing Law

This Assignment Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable in the Province of Alberta.

15. Time of the Essence

Time shall be of the essence of this Assignment Agreement.

16. Successors and Assigns

The provisions hereof shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and assigns.

17. Headings

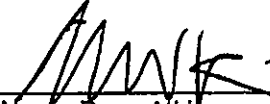
In this Assignment Agreement, the insertion of headings is for the convenience of reference only and shall not affect the construction or interpretation of this Assignment Agreement.

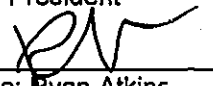
18. Acknowledgement and Incorporation of Terms

Notwithstanding anything to the contrary expressed or implied in paragraph 2(a) the transfers, assignments and security interests made or created by this Assignment Agreement shall be, and the Lender shall hold the security created by this Assignment Agreement, subject to the terms of the Assigned Contracts. For greater certainty it is acknowledged that nothing contained in this paragraph 18 will render the Lender or its agent liable to the Borrower or any other person for any failure by the Lender or its agent to assume or discharge any liability of the Borrower in respect of any obligation of the Borrower unless the Lender otherwise expressly agrees in writing to assume such liability.

IN WITNESS WHEREOF the undersigned has executed this Assignment Agreement as of the date first written above.

ALBERTA FOOTHILLS PROPERTIES LTD.

Per:   
Name: Drew Atkins  
Title: President

Per:   
Name: Ryan Atkins  
Title: Secretary/Treasurer

**SCHEDULE "A"**

**TO A SPECIFIC ASSIGNMENT OF CONSTRUCTION CONTRACTS MADE  
BETWEEN THE BORROWER AND THE LENDER  
DATED AS OF THE 17 DAY OF August, 2015**

**ASSIGNED CONTRACTS**

N/A

---

THIS IS EXHIBIT "I"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426



**SPECIFIC ASSIGNMENT OF DEVELOPMENT AGREEMENTS, PERMITS AND APPROVALS**

THIS SPECIFIC ASSIGNMENT OF DEVELOPMENT AGREEMENTS, PERMITS AND APPROVALS (this "Assignment Agreement") dated as of the 17 day of August, 2015

**BETWEEN:**

**ALBERTA FOOTHILLS PROPERTIES LTD.**, a body corporate incorporated under the laws of the Province of Alberta (hereinafter referred to as the "Borrower" or the "Debtor")

- and -

**ALBERTA TREASURY BRANCHES**, a Crown corporation pursuant to the *Alberta Treasury Branches Act* (Alberta) having an office in the City of Calgary, in the Province of Alberta (hereinafter called the "Lender")

**WHEREAS** the Borrower, as borrower, and the Lender, as lender, have entered into a commitment letter dated July 9, 2015 (as amended, modified, supplemented, restated or replaced, from time to time, the "Loan Agreement"); and

**WHEREAS** the Borrower has agreed to provide to the Lender, *inter alia*, this Assignment Agreement as collateral security for the obligations of the Debtor under the Loan Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants in the Loan Agreement and herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Defined Terms

Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Agreement.

2. Assignment

- (a) As continuing collateral security for the due and timely satisfaction and performance of the Borrower's obligations under the Loan Agreement, the Debtor hereby transfers, assigns and grants a security interest in, to and in favour of the Lender, of all the Debtor's present and future rights, title and interest whatsoever in and to the agreements and choses-in-action described in Schedule "A" hereto and all amendments, supplements, modifications or extensions thereof (collectively, the "Assigned Rights") including, without limiting the generality of the foregoing, all of the Debtor's rights, claims, privileges, benefits and advantages comprised therein and arising therefrom.
- (b) This Assignment Agreement shall not in any way suspend or affect the rights or remedies of the Lender in respect of the obligations of the Borrower under the Loan Agreement or any part thereof, nor shall it affect any securities which the Lender now has or hereafter may hold in respect of the Loan Agreement or any part thereof.

3. Rights of the Lender

If the Lender shall become entitled to exercise the remedies referred to in the Loan Agreement, in addition to any other remedies permitted by contract, law or otherwise, the Lender shall at any time thereafter have the right to fulfill and enforce all rights and remedies of or in respect of the Debtor under

the Assigned Rights and any such right or remedy may be exercised separately from or in combination with any right or remedy the Lender may have and shall be in addition to and not in substitution for any other rights and remedies to the Lender. The Lender shall not be bound to exercise such right or remedy or otherwise deal with all or any part of the Assigned Rights or otherwise realize any proceeds therefrom and shall not be responsible for any loss occasioned by any realization or other dealing with or other failure to realize or otherwise deal with all or any part of the Assigned Rights. To the extent permitted by law, the Debtor hereby expressly waives each and every formality prescribed by law in relation to any sale, transfer or delivery of the Assigned Rights.

4. Concerning Liability

~~Notwithstanding anything contained herein to the contrary, the Debtor shall remain liable to observe and perform all of the terms and provisions on its part to be observed and performed under the Assigned Rights with no liability whatsoever accruing to the Lender.~~

5. Representation and Warranties of the Debtor

The Debtor hereby represents, warrants and covenants to the Lender that:

- (a) it has made no prior assignment of the Assigned Rights;
- (b) the Assigned Rights have not been amended, supplemented, modified, extended, renewed or replaced other than as disclosed in Schedule "A";
- (c) the Assigned Rights are in full force and effect and shall not be amended, altered or released without the Lender's prior written consent;
- (d) the Debtor has not received notice of any default under the Assigned Rights;
- (e) the Debtor is not aware that any parties to the Assigned Rights are in default under the Assigned Rights; and
- (f) all necessary approvals and consents have been obtained in order to permit the Debtor to subject to the security interest of this Assignment Agreement the interest of the Debtor in the Assigned Rights.

6. No Further Assignment by the Debtor; No Termination of Assigned Rights

- (a) Neither the Assigned Rights nor any interest of the Debtor therein shall be transferred, assigned or otherwise alienated or encumbered by the Debtor in favour of any person except in accordance with the provisions of the Loan Agreement.
- (b) The Debtor shall not terminate the Assigned Rights nor agree to such termination by any party thereto without the express prior written consent of the Lender.

7. Application of Proceeds

Any proceeds received by the Lender in respect of the Assigned Rights after the Lender has become entitled to exercise the remedies referred to in the Loan Agreement shall be applied by the Lender in accordance with the provisions of the Loan Agreement.

8. No Merger of Obligations

This Assignment Agreement shall not operate by way of merger of any of the obligations of the Debtor under the Loan Agreement, and no judgment recovered by the Lender shall operate by way of

merger of or in any way affect the security hereby constituted which is in addition to and not in substitution for and shall not in any way prejudice any other security now heretofore or hereafter held by the Lender.

9. Termination and Release

Upon payment, satisfaction, settlement or extinguishment of the Debtor's obligations under the Loan Agreement in full, or if the Debtor is otherwise entitled to a release of this Assignment Agreement in accordance with the terms of the Loan Agreement, the Lender, upon request in writing by the Debtor and at the Debtor's expense, shall execute and deliver to the Debtor such deeds or other instruments as shall be requisite to discharge the security interest hereby constituted and to re-assign and transfer to the Debtor all of the right, title and interest of the Lender in and to the Assigned Rights.

10. Further Assurances

The Debtor shall, at its expense, make, execute and, deliver or cause to be made, executed and delivered all such further acts, documents and things as the Lender may reasonably require for the purposes of giving effect to this Assignment Agreement including, without limiting the generality of the foregoing, for the purpose of the facilitating the enforcement of the security over the Assigned Rights hereby constituted and for the purpose of exercising all powers, authorities and discretion hereby conferred upon or acquired by the Lender, all immediately upon the request of the Lender.

11. No Duty to Inquire

No person dealing with the Lender or its agents including, without limitation, the parties to the Assigned Rights, shall be concerned to inquire whether the powers which the Lender or such agents are purporting to exercise under this Assignment Agreement have become exercisable, or whether any money remains due and owing by the Debtor to the Lender, or as to the necessity or expediency of, or the performance of or compliance with, the stipulations and conditions subject to which any realization shall be made, or otherwise as to the propriety or regularity of any realization or of any other dealing by the Lender with the Assigned Rights or to see to the application of any money paid to the Lender; and in the absence of fraud on the part of such person, such dealings shall be deemed, insofar as regards the safety and protection of such person, to be within the powers hereby conferred and to be valid and effectual accordingly.

12. Severability

In the event that any provision of this Assignment Agreement shall be invalid, illegal or unenforceable in any respect in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Assignment Agreement.

13. Amendments, Etc.

No amendment or waiver of any provision of this Assignment Agreement, nor consent of the Debtor to any departure herefrom, shall in any event be effective unless the same shall be in writing and signed by the Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

14. Governing Law

This Assignment Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable in the Province of Alberta.

15. Time of the Essence

Time shall be of the essence of this Assignment Agreement.

16. Successors and Assigns

The provisions hereof shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and assigns.

17. Headings

In this Assignment Agreement, the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Assignment Agreement.


18. Acknowledgement and Incorporation of Terms


Notwithstanding anything to the contrary expressed or implied in paragraph 2(a) the transfers, assignments and security interests made or created by this Assignment Agreement shall be, and the Lender shall hold the security created by this Assignment Agreement, subject to the terms of the Assigned Rights. For greater certainty it is acknowledged that nothing contained in this paragraph 18 will render the Lender or its agent liable to the Debtor or any other person for any failure by the Lender or its agent to assume or discharge any liability of the Debtor in respect of any obligation of the Debtor unless the Lender otherwise expressly agrees in writing to assume such liability.

**[signatures continue on next page]**

IN WITNESS WHEREOF the undersigned has executed this Assignment Agreement as of the date first written above.

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per:   
Name: Drew Atkins  
Title: President

Per:   
Name: Ryan Atkins  
Title: Secretary/Treasurer

---

**SCHEDULE "A"**

**TO A SPECIFIC ASSIGNMENT OF DEVELOPMENT AGREEMENTS, PERMITS AND APPROVALS  
MADE BETWEEN THE DEBTOR AND THE LENDER  
DATED AS OF THE 17 DAY OF August, 2015**

**ASSIGNED RIGHTS**

1. **Development Agreement dated June 10<sup>th</sup> 2014 between The Municipal District of Foothills No. 31 and Alberta Foothills Properties Ltd.**
2. **Direct Control District Permit dated July 10, 2014 Redesignation by the Municipal District of Foothills No. 31 of NW 16-20-29-W4M**
3. **Creation of Direct Control District dated July 10, 2014 Redesignation by the Municipal District of Foothills No. 31 of 89.19 Acre portion of NW 16-20-29-W4M**


THIS IS EXHIBIT "J"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

**CONTINUING GUARANTEE**  
**(Including Postponement and Assignment of Claims)**

TO: ALBERTA TREASURY BRANCHES  
IN CARE OF:  
600, 585-8<sup>th</sup> Avenue S.W.  
Calgary, Alberta  
T2P 1G1

IN CONSIDERATION of Alberta Treasury Branches (hereafter sometimes called "ATB " or "you") extending credit to or otherwise dealing or continuing to deal with **ALBERTA FOOTHILLS PROPERTIES LTD.** (hereafter called "the Customer"), the undersigned (~~jointly and severally if more than one~~) hereby ~~guarantees unconditionally and promises to pay to ATB or order all~~ existing and future debts and liabilities of the Customer to ATB, whether such debts and liabilities are direct or indirect or by way of guarantee or otherwise, whether incurred alone or with another or others, whether heretofore or hereafter incurred, whether voluntarily or involuntarily incurred, whether due or not due, and whether absolute, inchoate, contingent, liquidated or unliquidated, and including, without limitation, interest accrued or to accrue on all such debts and liabilities at the same rate or rates payable by the Customer, both before and after default, maturity, and judgment, whether such judgment be obtained against the Customer and the undersigned or any of them.

The undersigned (jointly and severally if more than one) further covenants and agrees with ATB as follows:

1. Without further authorization from or notice to the undersigned you may grant credit to or otherwise deal or continue to deal with the Customer from time to time, either before or after revocation hereof, in such manner, upon such terms and for such time as you may deem best, and with or without notice to the undersigned you may alter, compromise, accelerate, extend or change the time or manner for the payment by the Customer or by any person or persons liable to you of any of the debts and liabilities hereby guaranteed, increase or reduce the interest rate thereon, release or add one or more guarantors or endorsers, accept additional or substituted security or release or subordinate any security. No exercise or non-exercise by you of any right hereby given you, no dealing by you with the Customer or any guarantor or endorser, no change, impairment or suspension of any right or remedy you may have against any person or persons shall in any way affect any of the undersigned's obligations hereunder or any security furnished by the undersigned or give the undersigned any recourse against you. No loss of or in respect of any securities received by you from the Customer or any other person, whether occasioned by your fault or otherwise, shall in any way limit or lessen the liability of the undersigned under this guarantee.
2. This shall be a continuing guarantee and shall cover and secure any ultimate balance owing to you by the Customer, but you shall not be obliged to take any action or exhaust your recourse against the Customer, any other guarantor hereunder or under any other guarantee agreement, or against any other person, firm or corporation, or under any securities you may hold at any time, nor to value such securities, before requiring or being entitled to payment from the undersigned of all debts and liabilities hereby guaranteed; PROVIDED always that the undersigned (or any of them, if more than one hereunder) may determine his further liability under this continuing guarantee by thirty (30) days' notice in writing to you, and the liability hereunder of such undersigned shall continue until the expiration of thirty (30) days after the giving of such notice, and after the expiration of such notice such undersigned shall remain liable under this guarantee in respect of any sum or sums of money owing to you as aforesaid on the date such notice expired, together with interest thereafter at the rate or rates payable by the Customer on such sum or sums; if there is more than one undersigned hereunder, a notice by one undersigned under this clause shall not affect the liability of any other undersigned under this guarantee.



3. If the undersigned is a corporation registered, incorporated, or continued under the *Business Corporations Act* (Alberta) the corporation will comply with all notice requirements at the times and in the manner as required under Section 45 (previously section 42) of the *Business Corporations Act* (Alberta).
4. When this guarantee is delivered to a lending officer of ATB, it shall be deemed to be finally executed and delivered by the person or persons signing the same and shall not be subject to or affected by any promise or condition affecting or limiting the (or any of the) undersigned's liability except as set forth herein, and no statement, representation, agreement or promise on the part of any officer, employee or agent of ATB, unless contained herein, forms any part of this guarantee or has induced the making thereof or shall be deemed in any way to affect the liability of the undersigned or any of the undersigned hereunder.
5. No alteration or waiver of this guarantee or of any of its terms, provisions or conditions shall be binding on ATB unless made in writing over the signature of the President and CEO, Chief Operating Officer or Chief Credit Officer of ATB.
6. Until all indebtedness of the Customer to you has been paid in full, the undersigned shall not have any right of subrogation or to securities held by ATB, unless expressly given to the undersigned in writing by the President and CEO, Chief Operating Officer or Chief Credit Officer of ATB.
7. You shall be at liberty (without in any way prejudicing or affecting your rights hereunder) to appropriate any payment made or monies received hereunder to any portion of the debts and liabilities hereby guaranteed whether then due or to become due, and from time to time to revoke or alter any such appropriation, all as you shall from time to time in your uncontrolled discretion see fit.
8. No change in the name, objects, share capital, business, membership, directors' powers, organization or management of the Customer shall in any way affect the obligations of the undersigned either with respect to transactions occurring before or after any such change, it being understood that where the Customer is a partnership or corporation, this guarantee is to extend to the person or persons or corporation for the time being and from time to time carrying on the business now carried on by the Customer, notwithstanding any change or changes in the name or membership of the Customer's firm or in the name of a corporate Customer, and notwithstanding any reorganization of a corporate Customer, or its amalgamation with another or others or the sale or disposal of its business in whole or in part to another or others.
9. Where the Customer is a corporation or partnership or any entity, you shall not be concerned to see or inquire into the powers of the Customer or its directors, partners or agents acting or purporting to act on its behalf, and credit in fact obtained from you in the professed exercise of such powers shall be deemed to form part of the debts and liabilities hereby guaranteed even though the borrowing or obtaining of such credit was irregularly, fraudulently, defectively or informally affected, or in excess of the powers of the Customer or of the directors, partners or agents thereof.
10. The statement in writing from time to time by a lending officer or account manager of ATB where any of the Customer's accounts are kept, or of a Vice-President of ATB, as to the debts and liabilities of the Customer to you and covered by this guarantee shall be received as prima facie evidence as against the undersigned that such amount is at such time so due and payable to you and is covered hereby.
11. The undersigned shall have a continuing current liability to ATB under this guarantee to the extent of the debts and liabilities of the Customer to ATB from time to time, provided however that for the purpose of the Limitation of Actions Act of Alberta or any similar legislation, the undersigned shall not be in breach of this guarantee and no cause of action against the undersigned shall arise hereunder unless and until ATB has served written demand upon the undersigned to pay or otherwise observe or perform his obligations under this guarantee and the undersigned has failed to do so promptly following service of such demand.
12. Upon the bankruptcy or winding up or other distribution of assets of the Customer or of any surety or guarantor for any indebtedness of the Customer to you, your rights shall not be affected or impaired by your omission to prove your claim or to prove your full claim and you may prove such claim as you see fit and may refrain from proving any claim, and in your

discretion you may value as you see fit or refrain from valuing any security or securities held by you without in any way releasing, reducing or otherwise affecting any undersigned's liability to you, and until all indebtedness of the Customer to you has been fully paid to you, you shall have the right to include in your claim the amount of all sums paid by the undersigned to you under this guarantee and to prove and rank for such sums paid by the undersigned and to receive the full amount of all dividends in respect thereto, all of the same being hereby assigned and transferred to you. The undersigned shall not be released from liability if recovery from the Customer, any other guarantor (including any other guarantor under this guarantee) or any other person becomes barred by any Statute of Limitations or is otherwise prevented.

13. The undersigned will file all claims against the Customer in any bankruptcy or other proceeding in which the filing of claims is required by law upon any indebtedness of the Customer to the undersigned and will assign to you all of the undersigned's rights thereunder. If the undersigned does not file any such claim, you, as attorney in fact of the undersigned, are hereby authorized to do so in the name of the undersigned or in your discretion to assign the claim to you or your nominee and cause proof of claim to be filed in your name or the name of your nominee. In all such cases, whether in administration, bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to you or your nominee the full amount payable on the claim in the proceeding before making any payment to the undersigned, and to the full extent necessary for that purpose the undersigned hereby assigns to you all the undersigned's rights to any payments or distributions to which the undersigned otherwise would be entitled. If the amount so paid is greater than the indebtedness of the Customer to you then outstanding, you are authorized to pay the amount of the excess to the person entitled thereto.
14. All your rights, powers and remedies hereunder and under any other agreement now or at any time hereafter in force between you and the undersigned shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to you by law. If you hold one or more other guarantees executed by the undersigned in respect of the Customer, the amount of the undersigned's liability under such other guarantee or guarantees shall be in addition to the undersigned's liability under this guarantee.
15. In case of default you may maintain an action upon this guarantee against the undersigned (or any one or more of the undersigned) whether or not the Customer is joined therein or separate action is brought against the Customer or judgment obtained against him. Your rights are cumulative and shall not be exhausted by the exercise of any of your rights hereunder or otherwise against the undersigned (or any one undersigned if more than one hereunder) or by any number of successive actions until and unless all debts and liabilities hereby guaranteed have been paid and each of the undersigned's obligations hereunder has been fully performed.
16. The undersigned shall pay to you on demand (in addition to all debts and liabilities of the Customer hereby guaranteed) all costs, charges and expenses (including, without limitation, lawyers' fees as between solicitor and his own client on a full indemnity basis) incurred by you for the preparation, execution, perfection and enforcement of this guarantee and of any securities collateral thereto, together with interest calculated from the date of payment by you of each of such costs, charges and expenses until payment by the undersigned hereunder at a floating rate per annum equal to 3% above the prime lending rate established by you from time to time.
17. Should any one or more provisions of this guarantee be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective.
18. Any notice or demand which you may wish to give may be served on the undersigned either personally on him, or his legal personal representative or in the case of a corporation on any officer or director of the corporation, or by sending the same by registered mail in an envelope addressed to the last known place of address of the person to be served as it appears on your records, and the notice so sent shall be deemed to be served on the second business day following that on which it is mailed. Any notice which the undersigned may wish to give you shall be served personally on the Manager or acting Manager of the Alberta Treasury Branch at the address specified on the first page of this guarantee.
19. This guarantee shall be construed in accordance with the laws of the Province of Alberta and in any action thereon the undersigned shall be estopped from denying the same; any judgment recovered in the Courts of such Province against any

## ATB Financial

---


undersigned or his executors, administrators, legal personal representatives, successors and/or assigns shall be binding on him and them. The undersigned accepts and submits to the jurisdiction of the courts of the Province of Alberta in respect of this guarantee.

20. Any word herein contained importing the singular number shall include the plural and vice versa, and any word importing gender shall include the masculine, feminine and neuter gender, and any word importing a person shall include a corporation and a partnership and any entity, in each case as the context requires or permits.
21. This guarantee and agreement on the part of the undersigned shall extend to and enure to your benefit and the benefit of your successors and assigns and shall be binding on the undersigned (jointly and severally if more than one hereunder) and on his (or on each of their) executors, administrators, legal personal representatives, successors and assigns.
22. **POSTPONEMENT AND ASSIGNMENT OF CLAIMS:** All indebtedness, present and future, of the Customer to the undersigned (and each of the undersigned if more than one) together with each and every security therefor is hereby assigned to you and postponed to the present and future debts and liabilities of the Customer to you, and following a default which is continuing under the amended and restated commitment letter dated July 9, 2014 (the "Commitment Letter"), between the Customer, the undersigned and ATB, all monies received from the Customer or for its account by the undersigned shall be by him received in trust for you, and forthwith upon receipt paid over to you until the Customer's debts and other liabilities to you are fully paid and satisfied, all without prejudice to and without in any way limiting or lessening the liability of the undersigned (or any of them if more than one) to you under this guarantee.

*[remainder of page intentionally left blank; signature page to follow]*

IN WITNESS WHEREOF the undersigned has executed this guarantee under seal, this 17 day of August, 2015.

**1367803 ALBERTA LTD.**

Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

---

THIS IS EXHIBIT "K"  
Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426



**AMENDED AND RESTATED SUBORDINATION AND STANDSTILL AGREEMENT**

This Amended and Restated Subordination and Standstill Agreement dated September \_\_\_\_, 2017 is made among 1367803 ALBERTA LTD. (the "Subordinate Creditor"), ALBERTA TREASURY BRANCHES (the "Lender") and ALBERTA FOOTHILLS PROPERTIES LTD. (the "Borrower").

**WHEREAS:**

~~A. The Lender has extended or has agreed to extend credit to the Borrower pursuant to the terms and provisions of the letter loan agreement dated September \_\_\_\_, 2017 between the Lender and the Borrower, as amended, modified, supplemented, restated or replaced, from time to time (the "Loan Agreement");~~

B. The Borrower has executed and delivered to and in favour of the Subordinate Creditor a promissory note dated January 1, 2013 in the principal amount of \$6,000,000.00 (the "Note") (a copy of which has been provided to the Lender);

C. The Subordinate Creditor has made debenture interest payments on behalf of the Borrower in the amount of \$162,827.51, as evidenced by the confirmation letter dated August 9, 2017 by the Subordinate Creditor (the "Letter", together with the Note, collectively, the "Subordinate Loan Documents") (a copy of which has been provided to the Lender);

D. The Borrower will execute and deliver or has executed and delivered to and in favour of the Lender various security documents to secure the indebtedness of the Borrower under the Loan Agreement;

E. the parties entered into the subordination and standstill agreement dated August 17, 2015 (the "Original Agreement") to set out the respective priorities and rights under the Lender Security and the Subordinate Security; and

F. the parties hereto have agreed to enter into this Agreement in order to amend and restate the respective priorities and rights under the Lender Security and the Subordinate Security.

**FOR GOOD AND VALUABLE CONSIDERATION**, paid by the Lender to the Subordinate Creditor and the Borrower, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto covenant and agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

1.1 In this Agreement, unless otherwise provided or the context otherwise required, terms and expressions defined in the preamble, recitals or body of this Agreement shall have the meanings so ascribed, and the following additional terms and expressions shall have the meanings respectively ascribed to them below:

- (a) **"Lender Indebtedness"** means all present and future indebtedness and liability of the Borrower to the Lender, whether direct or indirect, absolute or contingent, matured or not, including all interest, fees, expenses, indemnities and costs arising under and pursuant to the Loan Agreement, but not otherwise;
- (b) **"Lender Security"** means, individually and collectively, all debentures, mortgages, charges, hypothecs, pledges, liens, encumbrances, assignments and security interests granted by the Borrower to the Lender with respect to the Lender Indebtedness only including, without limitation, any assignment of any right to receive proceeds, revenue or income, conditional sales agreements or others security interests whatsoever, howsoever arising or created upon or in relation to the security now or hereafter held directly or indirectly by or for the benefit of the Lender;
- (c) **"Subordinate Indebtedness"** means all present and future indebtedness and liability of the Borrower to the Subordinate Creditor, whether direct or indirect, absolute or contingent, matured or not, including all interest, fees, expenses, indemnities and costs arising under and pursuant to the Subordinate Loan Documents; and
- (d) **"Subordinate Security"** means, individually and collectively, all debentures, mortgages, charges, hypothecs, pledges, liens, encumbrances, assignments and security interests granted by the Borrower to the Subordinate Creditor including, without limitation, any assignment of any right to receive proceeds, revenue or income, conditional sales agreements or other security interests whatsoever, howsoever arising or created upon or in relation to the security now or hereafter held directly or indirectly by or for the benefit of the Subordinate Creditor.

## **ARTICLE 2**

### **SUBORDINATION**

- 2.1 Notwithstanding the dates of execution and delivery by the Borrower of the Lender Security or the Subordinate Security, the dates of filing or perfecting thereof or the dates of any advances thereunder, the Subordinate Security and the Subordinate Indebtedness are hereby subordinated, postponed and subjected in all respects (including, the right to payment, priority of security and realization in respect of security) to the Lender Security and the Lender Indebtedness, in accordance with the terms of this Agreement.
- 2.2 So long as any Lender Indebtedness is outstanding:
  - (a) subject to paragraph 2.2(b) below, the payment of all Subordinate Indebtedness is hereby subordinated, postponed and subjected in all respects to the indefeasible payment in full and final satisfaction of the Lender Indebtedness, provided that prior to an event of default under the terms of the Loan Agreement or the Lender Security, the Borrower may make scheduled interest only payments under the Subordinate Indebtedness in accordance with its terms; and

(b) the Subordinate Security is hereby subordinated and postponed to all the rights and remedies of the Lender pursuant to the Lender Security and the Subordinate Creditor may not realize or otherwise exercise any rights or remedies under any of the Subordinate Security unless and until the Subordinate Creditor has provided 180 days prior written notice to the Lender of commencing any such action in respect of the Subordinate Security, provided that such 180 day notice shall not be required for the Subordinate Creditor to realize or otherwise exercise any rights or remedies under the Subordinate Security if the Lender has notified the Borrower and the Subordinate Creditor of its intent to accelerate repayment of the Lender Indebtedness and exercise its right and remedies pursuant to the Lender Security.

2.3 Upon the occurrence of an event of default under the terms of the Loan Agreement or the Lender Security, the payment of all Subordinate Indebtedness and the Subordinate Security shall remain postponed and subordinated to the Lender Indebtedness and the Lender Security until the payment in full and final satisfaction of the Lender Indebtedness.

2.4 Upon any distribution of assets by the Borrower to its creditors pursuant to dissolution, winding-up, liquidation, reorganization, compromise, adjustment of debt, arrangement with creditors, or similar proceedings of the Borrower or its property, or in any bankruptcy, insolvency, receivership, assignment for the benefit of creditors or other proceedings, or in the event of any bulk sale of any of its assets within the bulk transfer provisions of any applicable laws or proceedings in relation thereto, whether any of the foregoing is voluntary or involuntary, partial or complete, the Subordinate Indebtedness and the Subordinate Security shall be postponed and subordinated to the Lender Indebtedness and the Lender Security until the payment in full and final satisfaction of the Lender Indebtedness.

### **ARTICLE 3** **COVENANTS**

3.1 The Subordinate Creditor and the Borrower represent and warrant to the Lender that as of the date of this Agreement:

(a) the Subordinate Indebtedness is evidenced solely by the Subordinate Loan Documents;

(b) there does not exist any Subordinate Security in respect of the Subordinate Indebtedness other than that which is created under and pursuant to the Subordinate Loan Documents; and

(c) the current principal amount of the Subordinate Indebtedness is \$6,162,827.51 and the terms of repayment and all other covenants with respect to the Subordinate Indebtedness are solely contained in the Subordinate Loan Documents.



- 3.2 The Subordinate Creditor shall not seek to collect from or against the Borrower or otherwise enforce any rights as a creditor against the Borrower in respect of the Subordinate Indebtedness, except as otherwise expressly permitted in this Agreement.
- 3.3 The Subordinate Creditor and the Borrower shall not amend, modify, alter, restate, supplement, replace or change the terms of the Subordinate Indebtedness and the Subordinate Loan Documents, as the case may be, without the express prior consent of the Lender, which consent may be arbitrarily withheld by the Lender.
- ~~3.4 The Borrower shall not, directly or indirectly, make, and the Subordinate Creditor shall not, directly or indirectly, accept or receive from the Borrower any loan or any distribution of assets to the Subordinate Creditor other than as expressly permitted by this Agreement.~~
- 3.5 If payment is received by the Subordinate Creditor on any Subordinate Indebtedness, other than that which is permitted pursuant to Section 2.2 hereof, the Subordinate Creditor agrees that it shall forthwith pay such amounts to the Lender. Any payment received by the Subordinate Creditor on any Subordinate Indebtedness, other than that which is permitted pursuant to Section 2.2 hereof, prior to the indefeasible payment in full of the Lender Indebtedness, shall be received in trust by the Subordinate Creditor for and on behalf of the Lender.
- 3.6 The Subordinate Creditor shall not interfere with or take any action or proceeding to restrain or control the exercise by the Lender of any right or remedy under the Lender Security.
- 3.7 Concurrently with execution of this Agreement, the Subordinate Creditor shall execute and deliver to the Lender registerable postponements of the Subordinate Loan Documents in favour of the Lender Security and shall, if, as and when required, consent to the subdivision and required partial discharges of the Subordinate Loan Documents in the normal course of the development for commercialization of the real property subject to the Subordinate Loan Documents and the Lender Security.

**ARTICLE 4**  
**GENERAL**

- 4.1 For the purposes of this Agreement, all information maintained on the Lender's books of account shall constitute prima facie evidence of the Lender Indebtedness to the Lender.
- 4.2 This Agreement shall extend to and be binding upon the parties hereto and their respective successors and permitted assigns.
- 4.3 The rights of the Lender under this Agreement shall not be prejudiced or otherwise affected by any release in whole or in part of any Lender Security or the granting from time to time of other indulgences to the Borrower. The Lender shall not be bound to exhaust its remedies against the Borrower or any other person.

- 4.4 This Agreement is a continuing security for the Lender Indebtedness and shall continue in full force and effect with respect to all amounts outstanding at any particular time in respect thereof, despite the partial or full repayment and re-advance from time to time of amounts owing under or in respect of the Loan Agreement.
- 4.5 The Subordinate Creditor may not assign in whole or in part any right under this Agreement, without the prior written consent of the Lender, which consent may be arbitrarily withheld.
- 4.6 This Agreement shall be governed and construed in accordance with the laws in force in the Province of Alberta. The parties hereto irrevocably submit and attorn to the jurisdiction of the Courts of the Province of Alberta for all matters arising out of or relating to this Agreement.
- 4.7 Words importing the singular number include the plural and vice versa; words importing gender include masculine, feminine and neuter genders; and where a term or expression is defined herein, derivations of such terms or expressions shall have corresponding meanings.
- 4.8 Any notice or other communication hereunder shall be in writing and shall be deemed to have been duly given only if personally delivered or mailed by prepaid ordinary mail:

in the case of the Lender, to it at the following address:

Alberta Treasury Branches  
600, 585 8<sup>th</sup> Avenue S.W.  
Calgary, AB T2P 1G1  
Attention: Director

in the case of the Subordinate Creditor, to it at the following address:

1367803 Alberta Ltd.  
3505 - 18<sup>th</sup> Street SW  
Calgary, Alberta T2T 4T9  
Attention: Manager

in the case of the Borrower, to it at the following address:

Alberta Foothills Properties Ltd.  
3505 - 18<sup>th</sup> Street SW  
Calgary, Alberta T2T 4T9  
Attention: Manager

Any notice or other communication given in the manner set out above shall be deemed given and received if an when personally delivered or, if mailed as aforesaid, but subject to the next sentence, shall be deemed to have been given and received forty-eight (48) hours after posting. In the event of a disruption or threatened disruption of regular mail service by strike or

threatened strike, all notices or other communications shall be deemed to have been given only if personally delivered in the manner aforesaid.

4.9 Time shall be of the essence in this Agreement.

4.10 The Subordinate Creditor and the Borrower agree to do all acts and things and to make, execute and deliver all further agreements, instruments and other assurances as may reasonably be required by the Lender or recommended by its legal counsel as necessary or desirable to carry out and implement the provisions of this Agreement or any other agreement to which this relates.

---

4.11 In the event that any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

4.12 No waiver of any provision of this Agreement, including without limitation, this section, shall be effective otherwise than by an instrument in writing dated subsequent to the date hereof, executed by duly authorized representatives of the party purported to have given such waiver and then only for the particular instance for which it is so given.

4.13 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument, and when all parties have executed a counterpart hereof, all such counterparts together shall constitute but one and the same agreement, with execution and delivery of counterparts by telecopier by any party hereto being binding upon all parties hereto.


4.14 Effective as of the date hereof, the Original Agreement (i) is hereby amended and restated as set forth herein without in any way affecting the rights or obligations of any party which may have accrued as of the date hereof pursuant to the provisions of such agreement prior to their amendment hereby, and (ii) is, as so amended and restated, ratified and confirmed.


*[remainder of page left blank, signature page to follow]*

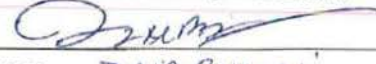
IN WITNESS WHEREOF this Agreement has been duly executed as of the date and year first above written.

**ALBERTA TREASURY BRANCHES**

**1367803 ALBERTA LTD.**

Per:   
Name: Dawn Walby  
Title: Turnaround Group  
Restructuring Consultant

Per:   
Name:  
Title:

Per:   
Name: ZAIB GILLANI  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per:   
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

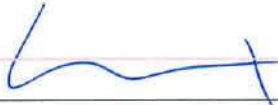
THIS IS EXHIBIT "L"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

**CONTINUING GUARANTEE**  
**(Including Postponement and Assignment of Claims)**

TO: ALBERTA TREASURY BRANCHES  
IN CARE OF:  
600, 585-8<sup>th</sup> Avenue SW  
Calgary, Alberta  
T2P 1G1

IN CONSIDERATION of Alberta Treasury Branches (hereafter sometimes called "ATB or "you") extending credit to or ~~otherwise dealing or continuing to deal with ALBERTA FOOTHILLS PROPERTIES LTD.~~ (the "Customer"), the undersigned (jointly and severally if more than one) hereby guarantees unconditionally and promises to pay to ATB or order all existing and future debts and liabilities of the Customer to ATB whether such debts and liabilities are direct or indirect or by way of guarantee or otherwise, whether incurred alone or with another or others, whether heretofore or hereafter incurred, whether voluntarily or involuntarily incurred, whether due or not due, and whether absolute, inchoate, contingent, liquidated or unliquidated, and including, without limitation, interest accrued or to accrue on all such debts and liabilities at the same rate or rates payable by the Customer, both before and after default, maturity, and judgment, whether such judgment be obtained against the Customer and the undersigned or any of them, PROVIDED THAT such debts or liability arise from or pursuant to the July 9, 2015 commitment letter from ATB to the Customer (as amended, modified, supplemented, restated or replaced, from time to time, the "Commitment Letter") the undersigned's liability under this guarantee shall not exceed \$7,000,000.00, plus interest after demand for payment hereunder, both before and after judgment, at a floating rate per annum of 3% above the prime lending rate from time to time established by ATB, plus any sums payable pursuant to paragraphs 12, 13, 16 and 22 of this guarantee.

The undersigned (jointly and severally if more than one) further covenants and agrees with ATB as follows:

1. Without further authorization from or notice to the undersigned you may grant credit to or continue to deal with the Customer from time to time, either before or after revocation hereof, in such manner, upon such terms and for such time as you may deem best, and with or without notice to the undersigned you may alter, compromise, accelerate, extend or change the time or manner for the payment by the Customer or by any person or persons liable to you for any of the debts and liabilities hereby guaranteed, increase or reduce the interest rate thereon, release or add one or more guarantors or endorsers, accept additional or substituted security or release or subordinate any security. No exercise or non-exercise by you of any right hereby given you, no dealing by you with the Customer or any guarantor or endorser, no charge, impairment or suspension of any right or remedy you may have against any person or persons shall in any way affect any of the undersigned's obligations hereunder or any security furnished by the undersigned or give the undersigned any recourse against you. No loss of or in respect of any securities received by you from the Customer or any other person, whether occasioned by your fault or otherwise, shall in any way limit or lessen the liability of the undersigned under this guarantee.
2. This shall be a continuing guarantee and shall cover and secure any ultimate balance owing to you by the Customer, but you shall not be obliged to take any action to exhaust your recourse against the Customer, any other guarantor hereunder or under any other guarantee agreement, or against any other person, firm or corporation, or under any securities you may hold at any time, nor to value such securities, before requiring or being entitled to payment from the undersigned of all debts and liabilities hereby guaranteed; PROVIDED always that the undersigned (or any of them, if more than one hereunder) may determine his further liability under this continuing guarantee by thirty (30) days' notice in writing to you, and the liability hereunder of such undersigned shall continue until the expiration of thirty (30) days after the giving of such notice, and after the expiration of such notice such undersigned shall remain liable under this guarantee in respect of any sum or sums of money owing to you as aforesaid on the date such notice expired, together with interest thereafter at the rate or rates payable by the Customer on such sum or sums; if there is more than one undersigned hereunder, a notice by one undersigned under this clause shall not affect the liability of any other undersigned under this guarantee.

3. If the undersigned is a corporation registered, incorporated, or continued under the *Business Corporations Act* (Alberta), the corporation will comply with all notice requirements at the times and in the manner as required under Section 45 (previously section 42) of the *Business Corporations Act* (Alberta).
4. When this guarantee is delivered to a lending officer of ATB it shall be deemed to be finally executed and delivered by the person or persons signing the same and shall not be subject to or affected by any promise or condition affecting or limiting the (or any of the) undersigned's liability except as set forth herein, and no statement representation, agreement or promise on the part of any officer, employee or agent of ATB, unless contained herein, forms any part of this guarantee or has induced the making thereof or shall be deemed in any way to affect the liability of the undersigned or any of the undersigned hereunder.
5. ~~No alteration or waiver of this guarantee or of any of its terms, provisions or conditions shall be binding on ATB unless made in writing over the signature of the President and CEO, Chief Operating Officer or Chief Credit Officer of ATB.~~
6. Until all indebtedness of the Customer to you has been paid in full, the undersigned shall not have any right of subrogation or to securities held by ATB, unless expressly given to the undersigned in writing by the President and CEO, Chief Operating Officer or Chief Credit Officer of ATB.
7. You shall be at liberty (without in any way prejudicing or affecting your rights hereunder) to appropriate any payment made or monies received hereunder to any portion of the debts and liabilities hereby guaranteed whether then due or to become due, and from time to time to revoke or alter any such appropriation, all as you shall from time to time in your uncontrolled discretion see fit.
8. No change in the name, objects, share capital, business, membership, directors' powers, organization or management of the Customer shall in any way affect the obligations of the undersigned either with respect to transactions occurring before or after any such change. it being understood that where the Customer is a partnership or corporation, this guarantee is to extend to the person or persons or corporation for the time being and from time to time carrying on the business now carried on by the Customer, notwithstanding any change or changes in the name or membership of the Customer's firm or in the name of a corporate Customer, and notwithstanding any reorganization of a corporate Customer, or its amalgamation with another or others or the sale or disposal of its business in whole or in part to another or others.
9. Where the Customer is a corporation or partnership or any entity, you shall not be concerned to see or inquire into the powers of the Customer or its directors, partners or agents acting or purporting to act on its behalf, and credit in fact obtained from you in the professed exercise of such powers shall be deemed to form part of the debts and liabilities hereby guaranteed even though the borrowing or obtaining of such credit was irregularly, fraudulently, defectively or informally affected, or in excess of the powers of the Customer or of the directors, partners or agents thereof.
10. The statement in writing from time to time by a lending officer or account manager of ATB where any of the Customer's accounts are kept, or of a Vice-President of ATB, as to the debts and liabilities of the Customer to you and covered by this guarantee shall be received as prima facie evidence as against the undersigned that such amount is at such time so due and payable to you and is covered hereby.
11. The undersigned shall have a continuing current liability to ATB under this guarantee to the extent of the debts and liabilities of the Customer to ATB from time to time, provided however that for the purpose of the Limitation of Actions Act of Alberta or any similar legislation, the undersigned shall not be in breach of this guarantee and no cause of action against the undersigned shall arise hereunder unless and until ATB has served written demand upon the undersigned to pay or otherwise observe or perform his obligations under this guarantee and the undersigned has failed to do so promptly following service of such demand.
12. Upon the bankruptcy or winding up or other distribution of assets of the Customer or of any surety or guarantor for any indebtedness of the Customer to you, your rights shall not be affected or impaired by your omission to prove your claim or to prove your full claim and you may prove such claim as you see fit and may refrain from proving any claim, and in your discretion you may value as you see fit or refrain from valuing any security or securities held by you without in any way releasing, reducing or otherwise affecting any undersigned's liability to you, and until all indebtedness of the Customer to

you has been fully paid to you, you shall have the right to include in your claim the amount of all sums paid by the undersigned to you under this guarantee and to prove and rank for such sums paid by the undersigned and to receive the full amount of all dividends in respect thereto, all of the same being hereby assigned and transferred to you. The undersigned shall not be released from liability if recovery from the Customer, any other guarantor (including any other guarantor under this guarantee) or any other person becomes barred by any Statute of Limitations or is otherwise prevented.

13. The undersigned will file all claims against the Customer in any bankruptcy or other proceeding in which the filing of claims is required by law upon any indebtedness of the Customer to the undersigned and will assign to you all of the undersigned's rights thereunder. If the undersigned does not file any such claim, you, as attorney in fact of the undersigned, are hereby authorized to do so in the name of the undersigned or in your discretion to assign the claim to you or your nominee and cause proof of claim to be filed in your name or the name of your nominee. In all such cases, whether in administration, bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to you or your nominee the full amount payable on the claim in the proceeding before making any payment to the undersigned, and to the full extent necessary for that purpose the undersigned hereby assigns to you all the undersigned's rights to any payments or distributions to which the undersigned otherwise would be entitled. If the amount so paid is greater than the indebtedness of the Customer to you then outstanding, you are authorized to pay the amount of the excess to the person entitled thereto.
14. All your rights, powers and remedies hereunder and under any other agreement now or at any time hereafter in force between you and the undersigned shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to you by law. If you hold one or more other guarantees executed by the undersigned in respect of the Customer, the amount of the undersigned's liability under such other guarantee or guarantees shall be in addition to the undersigned's liability under this guarantee.
15. In case of default you may maintain an action upon this guarantee against the undersigned (or any one or more of the undersigned) whether or not the Customer is joined therein or separate action is brought against the Customer or judgement obtained against him. Your rights are cumulative and shall not be exhausted by the exercise of any of your rights hereunder or otherwise against the undersigned (or any one undersigned if more than one hereunder) or by any number of successive actions until and unless all debts and liabilities hereby guaranteed have been paid and each of the undersigned's obligations hereunder has been fully performed.
16. The undersigned shall pay to you on demand (in addition to all debts and liabilities of the Customer hereby guaranteed) all costs, charges and expenses (including, without limitation, lawyer's fees as between solicitor and his own client on a full indemnity basis) incurred by you for the preparation, execution, perfection and enforcement of this guarantee and of any securities collateral thereto, together with interest calculated from the date of payment by you of each of such costs, charges and expenses until payment by the undersigned hereunder at a floating rate per annum equal to 3% above the prime lending rate established by you from time to time.
17. Should any one or more provisions of this guarantee be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective.
18. Any notice or demand which you may wish to give may be served on the undersigned either personally on him, or his legal personal representative or in the case of corporation on any officer or director of the corporation, or by sending the same by registered mail in an envelope addressed to the last known place of address of the person to be served as it appears on your records, and the notice so sent shall be deemed to be served on the second business day following that on which it is mailed. Any notice which the undersigned may wish to give you shall be served personally on the Manager or acting Manager of the Alberta Treasury Branch at the address specified on the first page of this guarantee.
19. This guarantee shall be construed in accordance with the laws of the Province of Alberta and in any action thereon the undersigned shall be estopped from denying the same; any judgement recovered in the Courts of such Province against any undersigned or his executors, administrators, legal personal representatives, successors and/or assigns shall be binding on him and them. The undersigned accepts and submits to the jurisdiction of the courts of the Province of Alberta in respect of this guarantee.



- 20. Any word herein contained importing the singular number shall include the plural and vice versa, and any word importing gender shall include the masculine, feminine and neuter gender, and any word importing a person shall include a corporation and a partnership and any entity, in each case as the context requires or permits.
- 21. This guarantee and agreement on the part of the undersigned shall extend to and enure to your benefit and the benefit of your successors and assigns and shall be binding on the undersigned (jointly and severally if more than one hereunder) and on his (or on each of their) executors, administrators, legal personal representative, successors and assigns.
- 22. POSTPONEMENT AND ASSIGNMENT OF CLAIMS: All indebtedness, present and future, of the Customer to the undersigned (and each of the undersigned if more than one) together with each and every security therefore is hereby assigned to you and postponed to the present and future debts and liabilities of the Customer to you, and all monies received from the Customer or for its account by the undersigned shall be by him received in trust for you, and forthwith upon receipt paid over to you until the Customer's debts and other liabilities to you are fully paid and satisfied, all without prejudice to and without in any way limiting or lessening the liability of the undersigned (or any of them if more than one) to you under this guarantee.

IN WITNESS WHEREOF the undersigned has executed the guarantee under seal, this 17 day of August, 2015.

  
 \_\_\_\_\_  
 WITNESS

  
 \_\_\_\_\_  
 DREW ATKINS

GUARANTEES ACKNOWLEDGMENT ACT  
CERTIFICATE

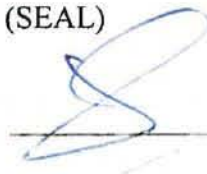
I HEREBY CERTIFY THAT:

1. DREW ATKINS of Calgary in the Province of Alberta, the guarantor in the guarantee dated the 17 day of August, 2015, made between DREW ATKINS and ALBERTA TREASURY BRANCHES which this certificate is attached to or noted upon, appeared in person before me and acknowledged that he had executed the guarantee.

2. I satisfied myself by examination of him that he is aware of the contents of the guarantee and understands it.

CERTIFIED by Doug Allison, Barrister and Solicitor at this at the City of Calgary, in the Province of Alberta, this 17 day of August, 2015

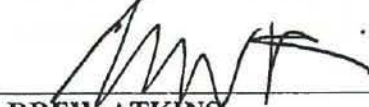
(SEAL)



DOUGLAS V. ALLISON  
Barrister & Solicitor  
A Notary Public in and  
for the Province of Alberta

STATEMENT OF GUARANTOR

I am the person named in this certificate.

  
DREW ATKINS

THIS IS EXHIBIT "M"  
Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

## DEBT SERVICE AND COST OVERRUN AGREEMENT

<b>To: Alberta Treasury Branches</b> 600 – 585 8 <sup>th</sup> Avenue S.W. Calgary, Alberta T2P 1G1		
Name of borrower (the " <b>Borrower</b> ") <b>ALBERTA FOOTHILLS PROPERTIES LTD.</b>	Aggregate amount of loan(s) \$29,850,655.00	Date of commitment letter (as amended or replaced from time to time) (the " <b>Commitment Letter</b> ") July 9, 2015

In consideration and as a condition of ~~ALBERTA TREASURY BRANCHES~~ (the "**Lender**") agreeing to make available to the Borrower the loan(s) (the "**Loan**") in the aggregate amount set out above pursuant to the terms of the Commitment Letter from the Lender to the Borrower, and in consideration of \$1.00 and other good and valuable consideration now paid by the Lender to the undersigned (receipt of which is hereby acknowledged), the undersigned hereby irrevocably agrees with the Lender as follows:

1. If the Borrower defaults in making full payment of any installment of interest at the time and in the manner agreed to pursuant to the Commitment Letter or the security documents (the "**Security Documents**") referred to therein, and such default shall continue for 10 days or more, the undersigned shall, forthwith on demand by the Lender, pay to the Lender the amount of the unpaid interest.
2. In addition, if a budget shortfall amount (as described below) has arisen and has continued for 15 days or more, the undersigned shall, on demand by the Lender, forthwith pay to the Lender such monies as are required to satisfy the budget shortfall amount, being the amount, if any, by which the aggregate cost, as determined by the Lender, to complete construction of the Project (as defined in the Commitment Letter) including the interest estimated to accrue due on the Loan to the date of completion of the Project, exceeds the unadvanced portion of the Loan (or if the Loan comprises more than one loan, exceeds the unadvanced portion of the construction loan included in the Loan). The monies so paid to the Lender shall be held by the Lender as cash collateral to secure the obligations of the Borrower to the Lender until released by the Lender in its discretion for injection by the Borrower into the Project to satisfy the budget shortfall.
3. The obligations of the undersigned under paragraphs 1 and 2 shall be continuing obligations in favour of the Lender which shall not be terminated by reason of a demand being made on the undersigned by the Lender hereunder, and the Lender shall be entitled to demand and redemand payment by the undersigned under paragraphs 1 and 2 from time to time and at any time. Notwithstanding anything else contained herein, the obligations of the undersigned to the Lender shall not exceed the respective amounts of the limited liability guarantees granted by the undersigned to the Lender to secure the obligations of the Borrower, each as amended, modified, supplemented, restated or replaced, from time to time.
4. Nothing herein contained shall prejudice or limit the right of the Lender to make demand for repayment by the Borrower of the Loan as provided in the Commitment Letter. In the event of such demand being made, the undersigned shall be obligated under paragraph 1 to make payment of interest accruing under the Loan on the last day of each month until the Loan is repaid in full.
5. The records of the Lender shall be conclusive evidence of the debt service amount payable to it from time to time, and/or the failure of the Borrower to pay any debt service amount when the same becomes due under the Loan and the Security Documents.
6. This Agreement shall be in addition to and not in substitution for the Security Documents or other security now held or hereinafter acquired by the Lender, and the Lender may do all or any of the following:
  - (a) grant time, renewals, extensions, indulgences, releases and discharges to;
  - (b) take securities from;
  - (c) abstain from taking additional security from;

- (d) abstain from perfecting securities of;
- (e) accept compositions from; and
- (f) otherwise deal with,

the undersigned, the Borrower and all other persons and securities, including the Security Documents as the Lender may see fit without prejudice to the rights of the Lender under this Agreement or any other securities, including the Security Documents.

7. The taking of judgment on any covenant contained herein shall not operate to create any merger or discharge of any liability or obligation of the undersigned hereunder or any securities, including the Security Documents, of any form held or which may be held hereafter by the Lender from the undersigned or the Borrower or from any other person or persons whomsoever.
8. If any one or more of the provisions contained in this Agreement should be determined to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
9. This Agreement shall enure to the benefit of the Lender and be binding on the undersigned and its heirs, executors, administrators, successors, and assigns. In the event that this Agreement is executed by more than one party, the obligations hereunder of each of the undersigned shall be joint and several, but the failure of any other party or parties to sign this or any other Debt Service Agreement shall in no way limit or prejudice the liability of the undersigned to the Lender.
10. Whenever the singular or the body politic or corporate is used herein the same shall be deemed to include the plural or the masculine or the feminine where the context or the parties so require.
11. Any notice or demand referred to herein may be delivered, transmitted by facsimile machine ("fax"), or may be mailed by prepaid ordinary mail to the undersigned at the number or address set out below, or such other number or address of which such party shall advise the Lender in writing from time to time, and the undersigned shall be deemed to have received such notice or demand on the date of delivery, if delivered, on the day following transmission, if transmitted by fax, or three (3) days after mailing, if mailed.
12. All reasonable legal costs incurred by the Lender in the enforcement of this Agreement shall be for the account of the undersigned.
13. This Agreement shall in all respects be governed by and be construed in accordance with the laws of the Province of Alberta.
14. This Agreement shall not be amended or varied or deemed to be amended or varied unless amended or varied by written instrument signed by a duly authorized officer of the Lender.

15. In witness whereof this Agreement has been executed by the undersigned this 17 day of August, 2015.

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per: [Signature]  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

**1367803 ALBERTA LTD.**

Per: [Signature]  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

Name <b>DREW ATKINS</b>	
Address	
Fax Number	Name of Witness
Signature <b>DREW ATKINS</b> X <u>[Signature]</u>	Signature of Witness X <u>[Signature]</u> <b>DOUGLAS V. ALLISON</b> Barrister & Solicitor A Notary Public in and for the Province of Alberta

THE GUARANTEES ACKNOWLEDGEMENT ACT (ALBERTA)

CERTIFICATE

I HEREBY CERTIFY THAT:

1. Drew Atkins of the City of Calgary, in the Province of Alberta, the guarantor in the Debt Service and Cost Overrun Agreement (guarantee) dated August 17, 2015, made by Drew Atkins in favour of Alberta Treasury Branches, which this certificate is attached to or noted upon, appeared in person before me and acknowledged that he had executed the said Debt Service and Cost Overrun Agreement (guarantee).
2. I satisfied myself by examination of him that he is aware of the contents of the Debt Service and Cost Overrun Agreement (guarantee) and understands it.

CERTIFIED by Doug Allison, Barrister and Solicitor at the City of Calgary in the Province of Alberta, this 17 day of August, 2015.

(SEAL)



DOUGLAS V. ALLISON  
Barrister & Solicitor  
A Notary Public in and  
for the Province of Alberta

STATEMENT OF GUARANTOR

I am the person named in this certificate.



DREW ATKINS

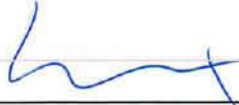
THIS IS EXHIBIT "N"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426



Search ID #: Z13794042

**Transmitting Party**

FASKEN MARTINEAU DUMOULIN LLP

3400, 350 7 Avenue SW  
Calgary, AB T2P 3N9

Party Code: 60008049  
Phone #: 403 261 5359  
Reference #: 279839.00045

Search ID #: Z13794042

Date of Search: 2021-May-05

Time of Search: 13:58:09

**Business Debtor Search For:**

ALBERTA FOOTHILLS PROPERTIES LTD.

Exact Result(s) Only Found

**NOTE:**

A complete Search may result in a Report of Exact and Inexact Matches.  
Be sure to read the reports carefully.



Search ID #: Z13794042

**Business Debtor Search For:**

ALBERTA FOOTHILLS PROPERTIES LTD.

Search ID #: Z13794042

Date of Search: 2021-May-05

Time of Search: 13:58:09

---

Registration Number: 15082607079

Registration Type: LAND CHARGE

Registration Date: 2015-Aug-26

Registration Status: Current

Registration Term: Infinity

---

Exact Match on:

Debtor

No: 1

---

**Debtor(s)**

**Block**

**Status**

1 ALBERTA FOOTHILLS PROPERTIES LTD.  
3505 18TH STREET SW  
CALGARY, AB T2T 4T9

Current

---

**Secured Party / Parties**

**Block**

**Status**

1 ALBERTA TREASURY BRANCHES  
6TH FLOOR, 585 8TH AVENUE SW  
CALGARY, AB T2P 1G1

Current

Search ID #: Z13794042

**Business Debtor Search For:**

ALBERTA FOOTHILLS PROPERTIES LTD.

Search ID #: Z13794042

Date of Search: 2021-May-05

Time of Search: 13:58:09

---

Registration Number: 16061417740

Registration Type: SECURITY AGREEMENT

Registration Date: 2016-Jun-14

Registration Status: Current

Expiry Date: 2026-Jun-14 23:59:59

---

Exact Match on:

Debtor

No: 1

---

**Debtor(s)**

**Block**

**Status**

1 ALBERTA FOOTHILLS PROPERTIES LTD  
3505 18TH STREET S.W.  
CALGARY, AB T2T 4T9

Current

**Secured Party / Parties**

**Block**

**Status**

1 ALBERTA TREASURY BRANCHES-TRANSIT# 04509  
SUITE 600, 585-8TH AVE SW  
CALGARY, AB T2P 1G1  
Phone #: 403 974 6653 Fax #: 403 974 5191

Current

**Collateral: General**

**Block**

**Description**

**Status**

1 ALL MONIES ON DEPOSIT WITH ALBERTA TREASURY BRANCHES

Current

Search ID #: Z13794042

**Business Debtor Search For:**

ALBERTA FOOTHILLS PROPERTIES LTD.

Search ID #: Z13794042

Date of Search: 2021-May-05

Time of Search: 13:58:09

---

Registration Number: 17010438967

Registration Type: SECURITY AGREEMENT

Registration Date: 2017-Jan-04

Registration Status: Current

Expiry Date: 2022-Jan-04 23:59:59

---

Exact Match on:

Debtor

No: 1

---

**Debtor(s)**

**Block**

**Status**

1 ALBERTA FOOTHILLS PROPERTIES LTD.  
3505 18TH STREET SW  
CALGARY, AB T2T4T9

Current

**Secured Party / Parties**

**Block**

**Status**

1 1367803 ALBERTA LTD.  
3505 18TH STREET SW  
CALGARY, AB T2T4T9

Current

**Collateral: General**

**Block**

**Description**

**Status**

1 ALL PRESENT AND AFTER ACQUIRED PROPERTY OF THE DEBTOR

Current

Search ID #: Z13794042

**Business Debtor Search For:**

ALBERTA FOOTHILLS PROPERTIES LTD.

Search ID #: Z13794042

Date of Search: 2021-May-05

Time of Search: 13:58:09

---

Registration Number: 19060607715

Registration Type: WRIT OF ENFORCEMENT

Registration Date: 2019-Jun-06

Registration Status: Current

Expiry Date: 2021-Jun-06 23:59:59

---

Issued in Edmonton Judicial Centre

Court File Number is 1903 00987

Judgment Date is 2019-May-31

This Writ was issued on 2019-Jun-04

Type of Judgment is Other

Original Judgment Amount: \$13,726.44

Costs Are: \$1,000.00

Post Judgment Interest: \$0.00

Current Amount Owing: \$14,726.44

---

Exact Match on: Debtor No: 1

---

**Solicitor / Agent**

ACKROYD LLP  
#1500 10665 JASPER AVENUE  
EDMONTON, AB T5J 3S9

Phone #: 780 423 8905

Fax #: 780 423 8946

Reference #: 156730/RCS

Email: stymiak@ackroydlaw.com

**Debtor(s)**

**Block**

1 ALBERTA FOOTHILLS PROPERTIES LTD.  
2205, 500-4TH AVENUE SW  
CALGARY, AB

**Status**

Current

**Creditor(s)**

**Block**

1 ACKROYD LLP  
#1500 10665 JASPER AVENUE  
EDMONTON, AB T5J 3S9

**Status**

Current

**Search ID #: Z13794042**

Phone #: 780 423 8905

Fax #: 780 423 8946

Email: [stymiak@ackroydlaw.com](mailto:stymiak@ackroydlaw.com)

---

Search ID #: Z13794042

**Business Debtor Search For:**

ALBERTA FOOTHILLS PROPERTIES LTD.

Search ID #: Z13794042

Date of Search: 2021-May-05

Time of Search: 13:58:09

---

Registration Number: 20092317766

Registration Type: SECURITY AGREEMENT

Registration Date: 2020-Sep-23

Registration Status: Current

Expiry Date: 2025-Sep-23 23:59:59

---

Exact Match on:

Debtor

No: 1

---

**Debtor(s)**

**Block**

**Status**

1 ALBERTA FOOTHILLS PROPERTIES LTD.  
3505 18TH STREET SW  
CALGARY, AB T2T 4T9

Current

**Secured Party / Parties**

**Block**

**Status**

1 ALBERTA TREASURY BRANCHES  
6TH FLOOR, 585 8TH AVENUE SW  
CALGARY, AB T2P 1G1

Current

**Collateral: General**

**Block**

**Description**

**Status**

1 All present and after-acquired personal property of the debtor.

Current

2 Proceeds: all goods, documents of title, chattel paper, instruments, money, investment property and intangibles.

Current

**Particulars**

**Block**

**Additional Information**

**Status**

1 This registration is a re-registration of registration 15082605923 pursuant to section 35 (7) of the Personal Property Security Act.

Current

Result Complete

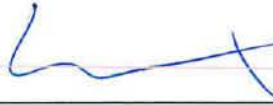
THIS IS EXHIBIT "O"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 1<sup>st</sup>

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426





LAND TITLE CERTIFICATE

S  
LINC                                      SHORT LEGAL                                      TITLE NUMBER  
0021 510 351                              4;29;20;16;NW                                      091 380 400

LEGAL DESCRIPTION

MERIDIAN 4 RANGE 29 TOWNSHIP 20  
SECTION 16  
QUARTER NORTH WEST  
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS  
EXCEPTING:  

PLAN	NUMBER	HECTARES	(ACRES)
ROADWAY	6393I	0.809	2.00
ROADWAY WIDENING	8210839	0.397	0.980
ROAD	8711147	4.69	11.59

EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE

MUNICIPALITY: TOWN OF OKOTOKS

REFERENCE NUMBER: 061 126 615

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
091 380 400	15/12/2009	TRANSFER OF LAND	\$4,900,000	\$4,900,000

OWNERS

ALBERTA FOOTHILLS PROPERTIES LTD.  
OF 1250, 639 - 5TH AVENUE SW  
CALGARY  
ALBERTA T2P 0M9

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION	NUMBER	DATE (D/M/Y)	PARTICULARS
7611DO	.	20/12/1926	UTILITY RIGHT OF WAY GRANTEE - ALTALINK MANAGEMENT LTD. 2611 - 3 AVE SE

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2  
# 091 380 400

REGISTRATION  
NUMBER      DATE (D/M/Y)      PARTICULARS

CALGARY  
ALBERTA T2A7W7  
"DATA UPDATED BY: TRANSFER OF UTRW NO. 1333FR"  
(DATA UPDATED BY: TRANSFER OF UTILITY RIGHT  
OF WAY 021187612)  
(DATA UPDATED BY: CHANGE OF ADDRESS 091134187)

7764LL .      20/10/1972 UTILITY RIGHT OF WAY  
GRANTEE - CANADIAN WESTERN NATURAL GAS COMPANY  
LIMITED.  
"E. 20 FT. OF W. 53 FT."

861 150 189      12/09/1986 CAVEAT  
RE : SEE CAVEAT  
CAVEATOR - ALTALINK MANAGEMENT LTD.  
2611 - 3 AVE SE  
CALGARY  
ALBERTA T2A7W7  
(DATA UPDATED BY: TRANSFER OF CAVEAT  
021223384)  
(DATA UPDATED BY: CHANGE OF ADDRESS 081460275)

871 232 284      17/12/1987 UTILITY RIGHT OF WAY  
GRANTEE - CANADIAN WESTERN NATURAL GAS COMPANY  
LIMITED.  
"PORTION AS DESCRIBED"

951 122 685      01/06/1995 UTILITY RIGHT OF WAY  
GRANTEE - CANADIAN WESTERN NATURAL GAS COMPANY  
LIMITED.  
PORTION AS DESCRIBED

131 144 933      19/06/2013 CAVEAT  
RE : AGREEMENT CHARGING LAND  
CAVEATOR - 1367803 ALBERTA LTD.  
TINGLE MERRETT LLP  
1250,639-5TH AVE SW  
CALGARY  
ALBERTA T2P0M9  
AGENT - DOUGLAS V ALLISON

151 227 181      02/09/2015 MORTGAGE  
MORTGAGEE - ALBERTA TREASURY BRANCHES.  
600, 585 8TH AVE  
CALGARY  
ALBERTA T2P1G1  
ORIGINAL PRINCIPAL AMOUNT: \$30,000,000

151 227 182      02/09/2015 CAVEAT  
RE : ASSIGNMENT OF INTEREST  
( CONTINUED )

-----  
ENCUMBRANCES, LIENS & INTERESTS

PAGE 3  
# 091 380 400

REGISTRATION  
NUMBER DATE (D/M/Y) PARTICULARS  
-----

CAVEATOR - ALBERTA TREASURY BRANCHES.  
ATT: MANAGER  
600 - 585 8 AVENUE SW  
CALGARY  
ALBERTA T2P1G1  
AGENT - MOHAMMED ALI MEMON

151 227 183 02/09/2015 POSTPONEMENT  
OF CAVE 131144933  
TO MORT 151227181 CAVE 151227182

161 177 514 28/07/2016 CAVEAT  
RE : AMENDING AGREEMENT  
CAVEATOR - ALBERTA TREASURY BRANCHES.  
6TH FLR, 585-8 AVE SW  
ATTN: MANAGER  
CALGARY  
ALBERTA T2P1G1  
AGENT - MOHAMMED ALI MEMON

161 237 810 06/10/2016 ENCUMBRANCE  
ENCUMBRANCEE - M. HOLMES HOLDINGS LIMITED.  
C/O 100-80 JUTLAND ROAD  
TORONTO  
ONTARIO M8Z2H1  
AMOUNT: \$2,000,000

161 237 811 06/10/2016 POSTPONEMENT  
OF CAVE 131144933  
TO ENCU 161237810

181 087 422 30/04/2018 CAVEAT  
RE : AMENDING AGREEMENT  
CAVEATOR - ATB FINANCIAL.  
ATTN: MANAGER  
600, 585-8TH ST SW  
CALGARY  
ALBERTA T2P1G1  
AGENT - MOHAMMED ALI MEMON

181 112 855 02/06/2018 POSTPONEMENT  
OF CAVE 131144933  
TO CAVE 181087422

181 185 577 30/08/2018 MORTGAGE  
MORTGAGEE - M. HOLMES HOLDINGS LIMITED.  
C/O 100-80 JUTLAND ROAD  
TORONTO  
ONTARIO M8Z2H1  
ORIGINAL PRINCIPAL AMOUNT: \$3,000,000

( CONTINUED )

-----  
ENCUMBRANCES, LIENS & INTERESTS

PAGE 4  
# 091 380 400

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

-----

181 211 378 29/09/2018 POSTPONEMENT  
OF CAVE 131144933  
TO MORT 181185577

181 269 778 14/12/2018 UTILITY RIGHT OF WAY  
GRANTEE - ALTALINK MANAGEMENT LTD.

191 013 587 18/01/2019 AMENDING AGREEMENT  
AMOUNT: \$5,000,000  
AFFECTS INSTRUMENT: 181185577

191 013 588 18/01/2019 CAVEAT  
RE : AGREEMENT CHARGING LAND  
CAVEATOR - 1367803 ALBERTA LTD.  
MILES DAVISON LLP  
900, 517-10TH AVE SW  
CALGARY  
ALBERTA T2R0A8  
AGENT - TERRY CZECHOWSKYJ

191 022 287 30/01/2019 POSTPONEMENT  
OF CAVE 131144933  
TO AMEA 191013587

191 115 626 18/06/2019 WRIT  
CREDITOR - ACKROYD LLP.  
1500,10665 JASPER AVE NW  
EDMONTON  
ALBERTA T5J3S9  
DEBTOR - ALBERTA FOOTHILLS PROPERTIES LTD.  
2205,500-4 AVE SW  
CALGARY  
ALBERTA T2P2V6  
AMOUNT: \$13,726 AND COSTS IF ANY  
ACTION NUMBER: 1903 00987

211 050 103 08/03/2021 DISCHARGE OF UTILITY RIGHT OF WAY 181269778  
PARTIAL  
EXCEPT PLAN/PORTION: 2010478

211 080 671 21/04/2021 TAX NOTIFICATION  
BY - THE TOWN OF OKOTOKS.  
P.O. BAG 20  
OKOTOKS, ALBERTA  
T1S1K1

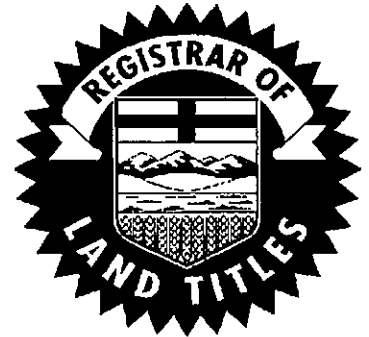
TOTAL INSTRUMENTS: 023

( CONTINUED )

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN  
ACCURATE REPRODUCTION OF THE CERTIFICATE OF  
TITLE REPRESENTED HEREIN THIS 10 DAY OF MAY,  
2021 AT 07:21 A.M.

ORDER NUMBER: 41626212

CUSTOMER FILE NUMBER: 279839.00045



---

~~\*END OF CERTIFICATE\*~~

---

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED  
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,  
SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM  
INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION,  
APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS  
PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING  
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

THIS IS EXHIBIT "P"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

## FORBEARANCE AGREEMENT

THIS AGREEMENT made as of the 16<sup>th</sup> day of March, 2018,

### AMONG:

ALBERTA FOOTHILLS PROPERTIES LTD., a body corporate incorporated under the laws of Alberta, having its office in Calgary, Alberta (the "**Borrower**")

- and -

1367803 ALBERTA LTD. o/a HOLMES COMMUNITIES, a body corporate incorporated under the laws of Alberta, having its office in Calgary, Alberta ("**1367803**")

- and -

DREW ATKINS, an individual resident in Calgary, Alberta ("**Drew**")

- and -

ATB FINANCIAL, a Crown corporation pursuant to the *Treasury Branches Act* (Alberta), having a branch office in Calgary, Alberta (the "**Lender**" or "**ATB**")

### WHEREAS:

- A. The Borrower is indebted to ATB as evidenced by the Indebtedness;
- B. The Borrower is in default of material covenants (the "**Default Event**") made to ATB under the Commitment Letter and the Borrower has requested time to submit a restructuring plan to address the Default Event; and
- C. ATB has agreed, subject to the terms and conditions hereof, to forbear on any realization of the Security registered against the Collateral at this time.

**NOW THEREFORE** in consideration of the mutual covenants, warranties, representations, covenants, conditions and agreements herein set forth, the parties hereto agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement (including the recitals and Schedules hereto), unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

"**1367803 Obligations**" has the meaning ascribed to such term in the Commitment Letter;

"**Agreement**" means this forbearance agreement and the expressions "**this Agreement**", "**hereto**", "**herein**", "**hereof**", "**hereby**", "**hereunder**" and any similar expressions refer to this forbearance agreement, as amended, modified, supplemented, restated or replaced, from time to time;

"**Business Day**" means a day on which financial institutions are open for general banking business in Calgary, Alberta, excluding Saturdays;

"**Closing Date**" means date hereof or such other date as may be mutually agreed to in writing by the parties hereto;

"**Closing Documents**" means this Agreement and the documentation more particularly described in Section 5.1 hereof;

"**Closing**" means the completion of the matters as contemplated by this Agreement on the Closing Date;

"**Collateral**" means the personal property and real property of the Debtors more particularly described in and subject to the Security;

"**Commitment Letter**" means the amended and restated commitment letter executed on or about September 29, 2017 from ATB to the Borrower, as amended, modified, supplemented, restated or replaced, including, without limitation, pursuant to this Agreement, from time to time;

"**Debtors**" means collectively, the Borrower, 1367803 and Drew, and "**Debtor**" means any of them;

"**Event of Default**" has the meaning ascribed to in Section 6.1 hereof;

"**Governmental Approval or Requirement**" means any authorization, order, permit, approval, grant, licence, consent, commitment, right, franchise, privilege, certificate, judgment, writ, injunction, award, determination, direction, decree or demand issued or granted by law, rule or regulation; or any law, rule or regulation of or made by any government, parliament, legislature, regulatory or administrative authority, agency, commission, tribunal or board having jurisdiction in the relevant circumstances;

"**Guarantors**" means collectively, 1367803 and Drew, and "**Guarantor**" means any of them;

"**Indebtedness**" means all indebtedness, obligations and liabilities of the Debtors to ATB pursuant to the Commitment Letter, all interest thereon, all obligations pursuant to this Agreement, all other obligations of the Debtors to ATB for borrowed money (including, without limitation, reimbursement and all other obligations, whether or not matured), including without limitation, all fees and legal fees (on a solicitor and own client basis) and all other liabilities of whatsoever nature of the Debtors to ATB;

"**Maturity Date**" means the earlier of (i) an Event of Default, or (ii) April 30, 2018;

"**MHHL Obligations**" has the meaning ascribed to such term in the Commitment Letter;

"**Person**" includes any individual, corporation, company, partnership, association, joint venture, unincorporated organization, trust, estate or government or any agency or subdivision thereof;

"**Project Lands**" has the meaning ascribed to such term in the Commitment Letter;



"Released Matters" has the meaning ascribed to such term in Section 7.1(a) hereof;

"Released Parties" has the meaning ascribed to such term in Section 7.1(a) hereof;

"Security" means each of the following:

- (a) general security agreement dated as of August 17, 2015 granted by the Borrower to the Lender;
- (b) mortgage in the principal amount of \$30,000,000.00 dated as of August 17, 2015 (the "Mortgage") granted by the Borrower to the Lender with respect to the Project Lands;
- (c) mortgage amending agreement amending the principal amount of the Mortgage to \$10,300,000.00 dated as of July 12, 2016 granted by the Borrower to the Lender with respect to the Project Lands;
- (d) general assignment of sales agreements dated as of August 17, 2015 granted by the Borrower to the Lender;
- (e) specific assignment of major development agreement dated as of August 17, 2015 granted by the Borrower to the Lender;
- (f) specific assignment of major construction contracts dated as of August 17, 2015 granted by the Borrower to the Lender;
- (g) unlimited guarantee dated as of August 17, 2015 granted by 1367803 to the Lender;
- (h) \$7,000,000.00 limited liability guarantee dated as of August 17, 2015 granted by Drew to the Lender; and
- (i) debt service and cash flow agreement dated as of August 17, 2015 granted by 1367803 to the Lender,

securing repayment of the Indebtedness.

## 1.2 Capitalized Terms

Capitalized terms used but not otherwise defined in this Agreement shall have the respective meanings ascribed thereto in the Commitment Letter.

## 1.3 Actions on Business Days

Wherever any action is required to be taken by any Person on any day, and such day is not a Business Day, such action shall be deemed to be required to be taken on the next succeeding Business Day.

## 1.4 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the parties hereby irrevocably submit and attorn to the non-exclusive jurisdiction of the courts of the Province of Alberta for all matters arising from this Agreement.

**ARTICLE 2**  
**NATURE OF FORBEARANCE, ACCRUEL OF INTEREST DURING FORBEARANCE**  
**AND COVENANT TO DELIVER CLOSING DOCUMENTS**

**2.1 Nature of Forbearance**

The Lender agrees to forbear on any realization against the Collateral pursuant to the Security until the Maturity Date, for so long as the Debtors are in compliance with the terms of this Agreement. This Agreement and all matters referred to herein in no way affect, prejudice or constitute a release or waiver of any claim or claims of ATB against any of the Debtors.

**2.2 Commitment Letter Provisions; Accrual of Interest**

- (a) ATB and the Debtors acknowledge and agree as follows with respect to the Commitment Letter:
  - (i) that as of the Closing Date, the Borrower has an outstanding principal balance of \$11,100,000 with accrued interest of \$208,476.15; and
  - (ii) until Maturity Date, the Lender hereby waives strict compliance by the Borrower with Section 8(a) of the Commitment Letter. During such period, the interest on all Indebtedness shall accrue at the rate of Prime plus 5.0%.
- (b) The Debtors shall, on or before April 16, 2018, have provided ATB with a restructuring plan with respect to the Borrower.

**2.3 Covenant to Deliver Closing Documents**

Upon satisfaction of the conditions in Section 4.1, the parties shall unconditionally deliver the Closing Documents in accordance with Article 5.

**ARTICLE 3**  
**REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGMENTS**  
**OF THE DEBTORS**

**3.1 Representations of Debtors**

The Debtors jointly and severally represent and warrant to ATB that as of the date hereof and at the Closing Date:

- (a) Each of the Borrower and 1367803 are, and until the termination of the Agreement shall continue to be, corporations duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation in Canada, and are registered and in good standing in the Province of Alberta;
- (b) Each of the Debtors has the requisite power and authority to carry on its business as presently conducted, to enter into this Agreement and to perform their respective other obligations under this Agreement. The consummation of the transactions contemplated by this Agreement will not violate nor be in conflict with any provision of any agreement

or instrument to which any of the Debtors is a party to or is bound by, or any judgment, decree, order, rule or regulations applicable to any of the Debtors, and the consummation of the transactions contemplated by this Agreement shall not conflict with any statute to which any of the Debtors is subject;

- (c) The execution, delivery and performance of this Agreement and the transactions contemplated hereby have been duly and validly authorized by all requisite corporate action on the part of the Debtors;
- (d) ~~The execution, delivery and performance of this Agreement and the transactions contemplated hereby does not and will not affect the liability of any of the Guarantors under their respective guarantees of the Indebtedness of Borrower to ATB;~~
- (e) This Agreement has been duly executed and delivered by each of the Debtors; and
- (f) This Agreement constitutes a legal, valid and binding obligation of each of the Debtors, enforceable in accordance with its terms.

### 3.2 Acknowledgements of Debtors

The Debtors jointly and severally acknowledge to the Lender that:

- (a) The facts as set out in the recitals to this Agreement are true and accurate in all respects and the same are expressly incorporated into and form part of this Agreement;
- (b) the Commitment Letter and all covenants, terms and provisions thereof shall be and continue to be in full force and effect and the Commitment Letter is hereby ratified and confirmed and shall from and after the date hereof continue in full force and effect.
- (c) the Borrower is in default of material covenants made to the Lender under the Commitment Letter;
- (d) the Lender is entitled to make demands of the Borrower for repayment of the Indebtedness;
- (e) all of the Security, and all covenants, terms and provisions therein, shall be and shall continue to be in full force and effect and all of the Security is hereby ratified and confirmed and shall from and after the date hereof continue in full force and effect;
- (f) the Security has not been discharged, varied, waived or altered and each of the documents comprising the Security is binding upon each Debtor party thereto, and is enforceable against such Debtor in accordance with the terms thereof;
- (g) ATB has not made any promises, other than the covenants and agreements specifically contained herein, and has taken any action or omitted to take any action, that would constitute a waiver or estoppel of ATB's rights to enforce the applicable Security or pursue its remedies in respect of the Commitment Letter;

- (h) as of the date hereof and continuing until the Maturity Date and thereafter until the termination of the tolling arrangement hereof in the manner provided for at Section 3.2(i), and whether or not demand for payment or a notice of intention to enforce Security has been delivered by the Lender, the Lender, the Borrower and all Guarantors hereby agree to toll and suspend the running of the applicable statutes of limitations, laches or other doctrines related to the passage of time in relation to the Indebtedness, the Security, and any entitlement arising from the Indebtedness or the Security and any other matters, and each of the parties confirm that this Agreement is intended to be an agreement to suspend or extend the limitation period, provided by Section 3 of the *Limitations Acts*, 2000 (Alberta) in accordance with the provisions of Section 7 and Section 9 of the *Limitations Acts*, 2000 (Alberta) and any contractual time limitation on the commencement of proceedings, any claims or defences based upon such application statute of limitation, contractual limitation, or any time related doctrine including waiver, estoppel or laches; and
- (i) the tolling provisions in this Agreement will terminate upon either the Debtors or the Lender providing the other with 60 days written notice of an intention to terminate the tolling provisions hereof, and upon the expiry of such 60 day notice, and any time provided for under the statutes of limitations, laches or any other doctrine related to the passage of time in relation to the Indebtedness, the Security or any entitlements arising from the Indebtedness or the Security and any other related matter, will recommence running as a of the effective date of such notice, and for greater certainty the time during which the limitation period is suspended pursuant to the tolling provisions of this Agreement shall not be included in the computation of any limitation period.

#### ARTICLE 4 ATB'S CONDITIONS

##### 4.1 Conditions in Favour of ATB

The obligation of ATB forebear on any realization of the Security is subject to the satisfaction of the following conditions:

- (a) Subject to Section 2.2(ii) hereof, the Debtors shall continue to make all other required payments of the Indebtedness pursuant to the Commitment Letter and hereunder;
- (b) the Borrower shall have complied with each of the matters pursuant to Sections 2.2 and 5.1;
- (c) all representations and warranties of the Debtors contained herein shall be true in all material respects at and as of the Closing Date and the Debtors shall have performed and satisfied all covenants and agreements required hereby to be performed and satisfied by the Debtors; and
- (d) the Debtors shall have obtained all Governmental Approvals or Requirements necessary for the Closing.

The foregoing conditions shall be for the sole benefit of ATB and may, without prejudice to any of the rights of ATB hereunder, be waived by ATB, in writing, in whole or in part, at any time. In case any of such conditions shall not be complied with, or waived by ATB, at or after the Closing Date, ATB may rescind or terminate this Agreement by written notice to the Debtors.

**ARTICLE 5  
CLOSING DOCUMENTS; COVENANTS OF DEBTORS**

**5.1 Closing Documents**

On or before the Closing Date, the Debtors shall have delivered to ATB the following Closing Documents, each in a form or forms satisfactory to ATB;

- (a) this Agreement, duly executed by the Debtors;
- (b) an executed mortgage amending agreement to increase the principal amount of the Mortgage to \$30,000,000 (the "MAA") with respect to the Project Lands;
- (c) a fully executed subordination and standstill agreement among 1367803, the Borrower and ATB with respect to the 1367803 Obligations;
- (d) a fully executed subordination and standstill agreement among M. Holmes Holdings Limited, the Borrower and ATB with respect to the MHHL Obligations;
- (e) evidence of discharge of Land Tiles instrument no. 161 167 412 or have Douglas V. Allison Professional Corporation enter into a subordination and standstill agreement with ATB, in form and substance satisfactory to ATB;
- (f) certified copies of title for the Project Lands registered in the name of the Borrower, evidencing registration of the caveat with respect to the MAA, subject only to the Permitted Encumbrances (as defined in the Mortgage);
- (g) evidence of insurance in accordance with section 11(g) of the Commitment Letter;
- (h) tax certificates evidencing all property taxes paid in full for the Project Lands;
- (i) all requisite supporting corporate authorizations from each of the Debtors regarding the authorization, execution and delivery of this Agreement; and
- (j) a legal opinion from counsel for the Debtors regarding the transactions contemplated by this Agreement.

**5.2 Covenants of the Debtors**

- (a) Subject to Section 2.2 of this Agreement, the Debtors, jointly and severally, shall comply with the provisions of the Commitment Letter, including all reporting requirements pursuant to the Commitment Letter.

- (b) The Debtors hereby irrevocably and unconditionally release and forever discharge the Lender and its officers, directors, employees, agents, advisors, consultants, successors and assigns of and from any and all manners of action, causes of action, suits, debts, liabilities, costs, claims, accountings and demands, both in law and in equity which each may now or hereafter have or might otherwise be entitled to make, pursuant to, arising from or in connection with the Commitment Letter between the Lender and the Borrower, the Security or this Agreement, including, without limitation, in connection with the enforcement by the Lender of its rights and remedies against the Collateral. This is in addition to any provisions as to release or discharge in the Security.
- (c) The Debtors, jointly and severally, covenant and agree that each will not, without the prior written consent of the Lender, make any filing or seek any protection (including a stay of proceedings) pursuant to the *Bankruptcy and Insolvency Act* (Canada), the *Companies Creditors' Arrangement Act* (Canada), or otherwise at law or in equity, that would in any way affect the rights or security of the Lender under this Agreement, the Commitment Letter or the Security.

### 5.3 Further Assurances

The parties shall, at any time and from time to time subsequent to Closing, execute any and all further instruments or assurances as may be necessary or desirable to give effect to the transactions contemplated by this Agreement.

## ARTICLE 6 EVENTS OF DEFAULT

### 6.1 Events of Default

Each of the following events shall be an Event of Default:

- (a) Subject to Section 2.2(ii) hereof, the Debtors shall fail to pay any principal (including, without limitation, mandatory prepayments of principal) of, or interest on, any Indebtedness, any fee, any other amount due hereunder when the same becomes due and payable; or
- (b) any representation or warranty made or deemed made by any Debtor (or any of its officers) in connection with this Agreement, shall prove to have been incorrect in any material respect when made or deemed made; or
- (c) the Debtors shall fail to perform or observe any term, covenant or agreement contained in this Agreement; or
- (d) any Debtor shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors, or any proceeding shall be instituted by or against any Debtor seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, arrangement, or reorganization or

relief of debtors, or seeking the entry of an order for relief or the appointment of a custodian, receiver, receiver manager, agent, trustee or other similar official for it or for any substantial part of its property and, in the case of any such proceedings instituted against any Debtor (but not instituted by it), either such proceedings shall remain undismissed or unstayed for a period of 10 days or any of the actions sought in such proceedings shall occur; or any Debtor shall take any corporate action to authorize any of the actions set forth above in this subsection (d); or

- (e) any judgment or order for the payment of money in excess of \$10,000.00 net of any amount that an insurance company has admitted coverage therefor shall be rendered against any Debtor remains unpaid and either (i) enforcement proceedings shall have been commenced by any creditor upon such judgment or order, or (ii) there shall be any period of 10 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or
- (f) there shall occur any default, or event which, but for the requirement that notice be given or time elapse or both, would be a default, under the Security; or
- (g) there shall occur a material adverse change in the financial condition of any Debtor or an event which would have a material adverse effect on any Debtor, including, without limitation, any termination, or threat to terminate, the business operations of any Debtor.

## 6.2 Remedies

Upon the occurrence of an Event of Default, ATB shall be immediately entitled to realize on the Security held by ATB regarding the Indebtedness. The Debtors hereby waive any requirement for demands to be made, and waive any otherwise applicable time periods under the *Bankruptcy and Insolvency Act* (Canada) and the *Personal Property Security Act* (Alberta) with respect to the Security and the Indebtedness. In the event any realization on the Security becomes permitted hereunder, each of the Debtors, jointly and severally, agrees to cooperate, without opposition, in all commercially reasonable respects with ATB or any agent, receiver, trustee or other party who is appointed by ATB or a court of competent jurisdiction to realize upon the Collateral.

## 6.3 Powers of Attorney

The Debtors hereby irrevocably constitute and appoint ATB and each of its officers holding office from time to time as the true and lawful attorney of the Debtors with power of substitution in the name of the Debtors to do any and all such acts and things or execute and deliver all such agreements, documents and instruments as ATB, in its sole discretion, considers necessary or desirable to carry out the provisions and purposes of this Agreement or to exercise any of its rights and remedies hereunder, and to do all acts or things necessary to realize or collect the proceeds, and the Debtors hereby ratify and agree to ratify all acts of any such attorney taken or done in accordance with this paragraph. This power of attorney, being a power coupled with an interest, shall not be revoked or terminated by any act or thing other than the termination of this Agreement. The Debtors hereby release ATB from any claims, causes of action and demands at any time arising out of or with respect to any actions taken or omitted to be taken by ATB, under such powers of attorney other than actions taken or omitted to be taken through the gross negligence or wilful misconduct of ATB.

**ARTICLE 7  
RELEASE**

**7.1 Release**

(a) Each Debtor hereby releases, remises, acquits and forever discharges ATB and their respective employees, agents, representatives, consultants, counsel, fiduciaries, servants, officers, directors, partners, predecessors, successors and assigns, subsidiary corporations, parent corporations, and related corporate divisions and the successors and assigns of each of the foregoing (all of the foregoing hereinafter called the "Released Parties"), from any and all actions and causes of action, judgments, executions, suits, debts, claims, demands, liabilities, obligations, damages and expenses of any and every character, known or unknown, direct or indirect, at law or in equity, of whatsoever kind or nature, whether heretofore or hereafter arising, for or because of any manner or things done, omitted or suffered to be done by any of the Released Parties prior to and including the date of execution hereof, and in any way directly or indirectly arising out of or in any way connected to this Agreement, the Commitment Letter and the Security (collectively, the "Released Matters"). Each Debtor acknowledges that the agreements in this paragraph are intended to be in full satisfaction of all or any alleged injuries or damages arising in connection with the Released Matters. Each Debtor represents and warrants to ATB that it has not purported to transfer, assign or otherwise convey any of its right, title or interest in any Released Matter to any other person and that the foregoing constitutes a full and complete release of all Released Matters.

(b) Each Debtor hereby agrees that it shall be obligated to indemnify and hold the Released Parties harmless with respect to any and all liabilities, obligations, losses, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever incurred by the Released Parties, or any of them, whether direct, indirect or consequential, as a result of or arising from or relating to any proceeding by, or on behalf of any Person, including, without limitation, the respective officers, directors, agents, trustees, creditors, partners or shareholders of each Debtor or any of its respective subsidiaries, whether threatened or initiated, in respect of any claim for legal or equitable remedy under any statute, regulation or common law principle arising from or in connection with the negotiation, preparation, execution, delivery, performance, administration and enforcement of the Commitment Letter, the Security, this Agreement or any other document executed and/or delivered in connection herewith or therewith; provided, that each of the Debtors shall have no obligation to indemnify or hold harmless any Released Party hereunder with respect to liabilities to the extent they result from the gross negligence or wilful misconduct of that Released Party as finally determined by a court of competent jurisdiction. If and to the extent that the foregoing undertaking may be unenforceable for any reason, each Debtor agrees to make the maximum contribution to the payment and satisfaction thereof which is permissible under applicable law. The foregoing indemnity shall survive the termination of this Agreement, the Commitment Letter, the Security and the payment in full of the Indebtedness owed by the Debtors to the ATB.

(c) Each Debtor, on behalf of itself and its successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favour of each Released Party and it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Released Party on the basis of any Released Matter. If each Debtor or any of its or his successors, assigns or other legal representatives violates the foregoing covenant, such Debtor, each for itself and its successors, assigns and legal representatives, agrees to pay, in addition to such other



damages as any Released Party may sustain as a result of such violation, all reasonable attorneys' fees and costs incurred by any Released Party as a result of such violation.

## ARTICLE 8 CONFIDENTIALITY

### 8.1 Confidentiality

Each party accepts and agrees, one with the other, that this Agreement and any information provided or delivered hereunder shall be strictly confidential and shall not be disclosed without the prior written consent of each of parties hereto, which consent may be arbitrarily withheld, excepting that such obligation shall not apply to such documents or information:

- (a) of a party where that party or those parties consent(s) in writing to its disclosure;
- (b) in the public domain through no wrongful act of the party disclosing;
- (c) received from a third party without restriction on further disclosure and without breach of this Agreement;
- (d) to the extent required to be disclosed to a stock exchange under the rules and regulations of that stock exchange; or
- (e) to the extent required by law or to be disclosed by order or direction of a court, board, commission or other tribunal of competent jurisdiction.

### 8.2 Survival

If Closing does not occur for any reason whatsoever, then, notwithstanding termination of this Agreement, the provisions set forth in this Article 7 shall continue to apply to the Debtors for three years from the date of such termination but shall cease to apply to ATB. Notwithstanding the foregoing, the Debtors shall not disclose any information relative to the transactions contemplated by this Agreement to any Person or as may be required or necessary (in the Debtor's opinion, acting reasonably) in any court proceedings, or unless the Debtors are required to make such disclosure by law.

## ARTICLE 9 NOTICES

### 9.1 Delivery of Documents and Notices

All notices, requests, demands and other communications provided for hereunder shall, unless otherwise stated herein, be in writing. All documents, notices, requests, demands and other communications hereunder shall be mailed, sent or delivered to ATB and the Debtors at their addresses listed below. Such documents, notices, requests, demands or other communications may be furnished by way of personal delivery, telecopier or registered mail, postage prepaid, return receipt requested to:

ATB Financial at:

Suite 600, West Tower,  
Eight Avenue Place, 585 8<sup>th</sup> Avenue SW  
Calgary, Alberta T2P 1G1

Attention: Zaib Gillani

Telecopier No.: (403) 988 9737

With a required copy to:

Fasken Martineau DuMoulin LLP  
350 - 7<sup>th</sup> Avenue S.W, Suite 3400  
Calgary, Alberta T2P 3N9

Attention: Scott Sangster

Telecopier No.: (403) 261-5351

---

the Debtors at:

Alberta Foothills Ltd.  
3505 - 18<sup>th</sup> Street SW  
Calgary, Alberta T2T 4T9

Attention: Allan Mar and Drew Atkins

Telecopier No.: \_\_\_\_\_

Email: \_\_\_\_\_ and \_\_\_\_\_

or at such other address, or telecopier number (including answerback), as the parties shall designate from time to time in a written notice to the other party hereto.

All such documents, notices, requests, demands or other communications, as the case may be shall be effective:

- (a) upon delivery, if given by personal delivery;
- (b) when sent, if given by telecopy and sent on a Business Day and, if not sent on a Business Day, on the next succeeding Business Day;
- (c) upon receipt by the addressee, if given by registered mail.

## ARTICLE 10 MISCELLANEOUS PROVISIONS

### 10.1 No Amendment or Waiver

Notwithstanding any other provisions of this Agreement, no amendment or waiver of any provisions of this Agreement, nor consent to any departure by the Debtors therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purposes for which given.

### 10.2 Fees and Expenses

All fees and expenses (including legal fees and disbursements) incurred by ATB and the Debtors in the negotiation and preparation of this Agreement and in concluding the transactions contemplated herein shall be paid by the Debtors.

### **10.3 Severability of Provisions**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

### **10.4 Ambiguity under this Agreement**

This Agreement and all other agreements and documents executed and/or delivered in connection herewith have been prepared through the joint efforts of all of the parties hereto. Neither the provisions of this Agreement or any such other agreements and documents nor any alleged ambiguity therein shall be interpreted or resolved against any party on the ground that such party or its counsel drafted this Agreement or such other agreements and documents, or based on any other rule of strict construction. Each of the parties hereto represents and declares that such party has carefully read this Agreement and all other agreements and documents executed in connection therewith, and that such party knows the contents thereof and signs the same freely and voluntarily. The parties hereto acknowledge that they have been represented by legal counsel of their own choosing in negotiations for and preparation of this Agreement and all other agreements and documents executed in connection herewith and that each of them has read the same and had their contents fully explained by such counsel and is fully aware of their contents and legal effect. If any matter is left to the decision, right, requirement, request, determination, judgment, opinion, approval, consent, waiver, satisfaction, acceptance, agreement, option or discretion of ATB or its employees, counsel, or agents in the Commitment Letter or any Security, such action shall be deemed to be exercisable by ATB or such other Person in its sole and absolute discretion and according to standards established in its sole and absolute discretion. Without limiting the generality of the foregoing, "option" and "discretion" shall be implied by the use of the words "if" and "may."

### **10.5 Effectiveness of the Commitment Letter and the Security**

Except as expressly set forth herein, the execution, delivery and effectiveness of this Agreement shall not directly or indirectly (i) create any obligation to make any further extensions of credit or to continue to defer any enforcement action after the occurrence of any Event of Default (ii) constitute a consent or waiver of any past, present or future violations of any provisions of the Commitment Letter or the Security, as the case may be, (iii) amend, modify or operate as a waiver of any provision of the Commitment Letter or the Security, as the case may be, or any right, power or remedy of ATB, (iv) constitute a consent to any merger or other transaction or to any sale, restructuring or refinancing transaction (v) constitute a course of dealing or other basis for altering the Commitment Letter or the Security, as the case may be, or any other contract or instrument. Except as expressly set forth herein, ATB reserves all of its respective rights, powers and remedies under the Commitment Letter, the Security and applicable law. All of the provisions of the Commitment Letter and the Security including, without limitation, the time of the essence provisions, are hereby reiterated, and if ever waived, are hereby reinstated.

**10.6 No Waiver of Event of Default**

ATB has not waived, and is not by this Agreement waiving, and has no intention of waiving (regardless of any delay in exercising such rights and remedies), any Event of Default which may be continuing on the date hereof or any Event of Default which may occur after the date hereof, and ATB has not agreed to forbear with respect to any of its rights or remedies concerning any Events of Default, which may have occurred or are continuing as of the date hereof, or which may occur after the date hereof.

**10.7 No Limit to ATB's Rights under the Commitment Letter and the Security**

Each Debtor agrees and acknowledges that ATB's agreement to forbear from exercising certain of their default-related rights and remedies with respect to the Default Event until the Maturity Date does not in any manner whatsoever limit ATB's right to insist upon strict compliance by each Debtor with the Commitment Letter or the Security, except as expressly set forth herein.

**10.8 No Novation**

This Agreement shall not be deemed or construed to be a satisfaction, reinstatement, novation or release of the Commitment Letter or the Security, as the case may be.

**10.9 Entire Agreement**

This Agreement states and comprises the entire agreement among the parties relative to the matters referred to herein. The parties acknowledge that there is no representation, warranty or collateral agreement relating to the matters referred to herein except as expressly set forth herein.

**10.10 Enurement**

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, receivers, receiver-managers, trustees and permitted assigns.


**10.11 Counterpart Telecopier; Electronic Execution**

This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed, shall be deemed to be an original and all of which taken together shall constitute one and the same agreement and the execution and delivery of counterparts of this Agreement by telecopier or other electronic means (including PDF format) by any party shall be binding upon the parties hereto.

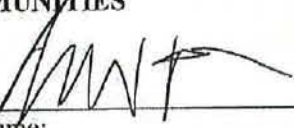
*[signature page to follow]*

**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be executed the day and year first above written.

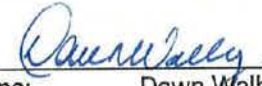
**ALBERTA FOOTHILLS PROPERTIES LTD.**

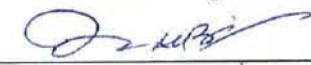
Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

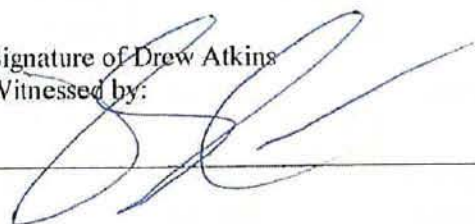
**1367803 ALBERTA LTD. o/a HOMES COMMUNITIES**

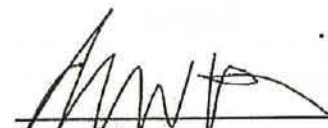
Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATB FINANCIAL**

Per:   
Name: Dawn Walby  
Title: Turnaround Group  
Restructuring Consultant

Per:   
Name: ZAIB GULANI  
Title: \_\_\_\_\_

Signature of Drew Atkins  
Witnessed by:   
\_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

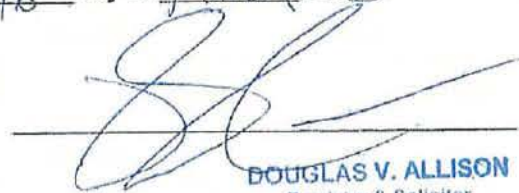
  
\_\_\_\_\_ )  
Drew Atkins

**THE GUARANTEES ACKNOWLEDGMENT ACT (ALBERTA)**

**I HEREBY CERTIFY THAT:**

1. **Drew Atkins** of the City of Calgary in the Province of Alberta, the guarantor in the guarantee (Forbearance Agreement), appeared in person before me and acknowledged that he had executed the guarantee (Forbearance Agreement);
2. I satisfied myself by examination of him that he is aware of the contents of the guarantee (Forbearance Agreement) and understands it.

CERTIFIED by Douglas Allison, Barrister and Solicitor at the City of Calgary, in the Province of Alberta, this 16 day of March, 2018.

  
\_\_\_\_\_  
**DOUGLAS V. ALLISON**  
Barrister & Solicitor  
A Notary Public in and  
for the Province of Alberta

**STATEMENT OF GUARANTOR**

I am the Person named in this certificate.

  
\_\_\_\_\_  
Guarantor: **Drew Atkins**

THIS IS EXHIBIT "Q"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

350 7th Avenue SW, Suite 3400  
Calgary, Alberta T2P 3N9  
Canada

T +1 403 261 5350  
+1 877 336 5350  
F +1 403 261 5351  
fasken.com

December 21, 2018  
File No.: 279839.00045/20066

Travis P. Lysak  
Direct +1 403 261 5501  
tlysak@fasken.com

VIA Email: [tczech@milesdavison.com](mailto:tczech@milesdavison.com)

**Miles Davison LLP**

900, 517 – 10th Avenue S.W.  
Calgary, Alberta T2R 0A8  
Attention: Terry Czechowskyj

Dear Sir:

**Re: ATB Financial (“ATB”) v Alberta Foothills Properties Ltd. (“AFPL”), 1367803 Alberta Ltd. O/A Holmes Communities (“136 Ltd”), and Drew Atkins**

Further to the recent discussions between ATB and AFPL, the following Letter Agreement contains the agreement between ATB and AFPL, 136 Ltd., and Mr. Atkins (collectively, the “**Debtor Group**”) with respect to ATB’s continued forbearance from enforcing its rights against the Debtor Group, which forbearance was first documented by a Forbearance Agreement dated March 16, 2018 between ATB and the Debtor Group (the “**Forbearance Agreement**”).

All capitalized terms not defined herein shall take the meaning ascribed to them in the Forbearance Agreement.

ATB hereby agrees to perform its commitments set out herein, and to forbear from taking steps to recover the Indebtedness and enforce the Security, including issuing demands and Notice to Enforce Security under section 244 of the *Bankruptcy and Insolvency Act* (“**BIA**”) until April 15, 2019 or such further period as mutually agreed upon between the parties hereto (the “**Forbearance Period**”) on the terms and conditions set out herein.

**Funding During Forbearance Period**

During the Forbearance Period, funding of AFPL’s business (the “**Business**”) shall be provided jointly by ATB and M. Holmes Holdings Limited (“**Holmes Holdings**”) in the amounts (the “**Funding Obligations**”) set out in the Cash Flow Summary attached hereto as Schedule “A” (the “**Cash Flow**”), but subject to the adjustments discussed below.

The Funding Obligations to be made by Holmes Holdings must be made:

- (a) on the dates set out in the Cash Flow; and



(b) by way of deposits into an account held by AFPL at ATB.

The Funding Obligations to be made by ATB shall be paid upon presentation to it by AFPL of an invoice respecting such Funding Obligation and written confirmation that the work associated with such Funding Obligation has been completed.

Upon execution of this Letter Agreement, ATB shall be entitled to charge a fee in the amount of \$10,000 with respect to its agreement to provide its portion of the Funding Obligations. Such fee shall be immediately added to the Indebtedness and be secured by any security granted by the Debtor Group, including the Security. Interest on any Funding Obligations advanced by ATB shall be charged at a rate equal to ATB's Prime Rate plus 8%.

### Adjustments

To the extent that AFPL realizes a positive cash flow variance at the end of each month with respect to any Funding Obligation whose payment is the responsibility of Holmes Holdings, ATB shall be at liberty to sweep such funds from AFPL's account and apply them as a permanent reduction of the Indebtedness.

To the extent that AFPL realizes a negative cash flow variance at the end of each month with respect to any Funding Obligation whose payment is the responsibility of Holmes Holdings, Holmes Holdings shall be obligated to pay AFPL an amount equal to such negative cash flow variance.

To the extent any Funding Obligation to be paid by ATB is greater than the amount indicated in the Cash Flow, ATB shall not be responsible for paying any of the increased amount.

### Milestones

AFPL shall meet the following milestones (the "Milestones") as follows:

Milestone	Milestone Completion Deadline
Completion of the Phase 1 Tentative Plan with respect to the development generally known as Wind Walk Phase 1 (" <b>Wind Walk Phase 1</b> ")	January 17, 2019
Presentation of the Phase 1 Tentative Plan to the Municipal Planning Committee of the Town of Okotoks (the " <b>MPC</b> ") and obtaining approval of the Phase 1 Tentative Plan from the MPC.	Commercially reasonable efforts by January 17, 2019

Completion of the first draft of the Wind Walk Phase 1 Detailed Design by Jubilee Engineering	February 15, 2019
Submission of the final version of the Wind Walk Phase 1 Detailed Design by Jubilee Engineering to MPC.	April 1, 2019

### **Default**

It will be a default under this Letter Agreement (a “**Default**”) if:

- (a) Holmes Holdings or ATB fails to make any of its Funding Obligations payments as required herein;
- (b) AFPL fails to achieve any of the Milestones by the deadlines set out herein unless such default was caused beyond the control of AFPL. If a default has occurred by AFPL, AFPL shall have 10 days to cure any default; or
- (c) any party hereto fails to perform its obligations under this Letter Agreement.

### **Consequences of Default**

In the event a Default occurs:

- (a) the Forbearance Period shall be immediately terminated;
- (b) interest on any Funding Obligations advanced by ATB shall be charged at a rate equal to ATB’s Prime Rate plus 11%;
- (c) ATB shall have no further obligation to make any further payments with respect to the Funding Obligations;
- (d) ATB shall be liberty to take whatever steps it deems necessary to recover the Indebtedness and enforce any security it holds, including the Security; and
- (e) AFPL shall be at liberty to bring an application for protection under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) on 15 days’ notice to ATB, or earlier provided AFPL consents to early enforcement under section 244 of the BIA.

### **Debtor in Possession Financing ROFR**

If at any time during or after the Forbearance Period AFPL obtains a commitment, term sheet or similar document from any lender to provide debtor in possession financing to it for the purposes of making an application for protection under the CCAA (a “**Third Party Commitment**”), AFPL agrees that, prior to executing such Third Party Commitment, it will provide ATB with a reasonable opportunity to advance debtor in possession financing to AFPL on similar terms to those in the Third Party Commitment (the “**ROFR**”).

AFPL will not execute any Third Party Commitments without first giving ATB a reasonable opportunity to exercise the ROFR.

This section of the Letter Agreement shall survive the termination or expiration of this Letter Agreement.

### **Reporting**

AFPL will provide ATB on the first business day of each week during the Forbearance Period with the following:

- (a) a comparison of the previous week’s actual cash flows versus those set out in the Cash Flow;
- (b) an update regarding any progress made with respect to any Milestone;
- (c) a report with respect to AFPL’s Business during the prior week including, but not limited to:
  - (i) communications with the MPC with respect to the approval of Wind Walk Phase 1;
  - (ii) any progress made with respect to obtaining the approval of Wind Walk Phase 1;
  - (iii) any progress made with respect to the negotiation and execution of a Subdivision Services Agreement, Developer Contribution Agreement, and a Transportation Agreement with the Town of Okotoks;
  - (iv) progress with respect to the preparation by Jubilee Engineering of the Wind Walk Phase 1 Detailed Design;
  - (v) progress with respect to negotiations with, and payments to, Alberta Environment and Parks Wetland Migration;

- (vi) progress with respect to the negotiation and execution of a Underground Electrical Distribution Services Agreement with Fortis Alberta; and
  - (vii) progress with respect to the negotiation of agreements related to the Sanitary Line Tie In.
- (d) a report with respect to any reasonable inquiry made by ATB during the previous week.

---

**Monitoring**

ATB shall, at its sole discretion, be at liberty to appoint a third party monitor except Lamont Land to monitor and report on the Business including, but not limited to, AFPL's performance of its obligations under this Agreement and the payment of the Funding Obligations.

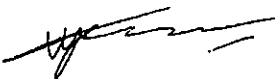
AFPL agrees that the costs related to the appointment of any monitor shall be paid by ATB and the amount of such payments shall be added to the Indebtedness and secured by any security granted by the Debtor Group to ATB, including the Security.

**Acknowledgment**

ATB shall not be obligated to pay any of its portion of the Funding Obligations until the Debtor Group has provided it with a written acknowledgement, in a form agreeable to ATB, executed by Holmes Holdings that any Funding Obligations advanced by ATB shall be repaid in priority to any amounts now or hereafter owing to Holmes Holdings.

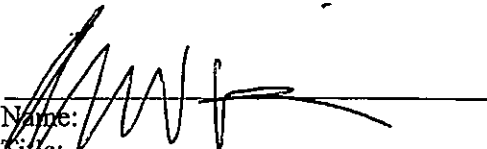
Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**

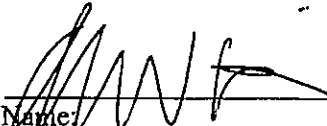
  
Travis P. Lysak  
TL/mt

The foregoing Letter Agreement is hereby agreed to this 11 day of December, 2018 by:

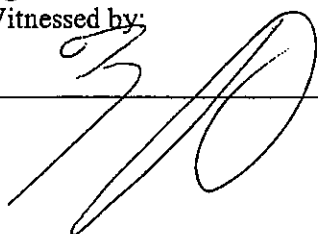
**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_


1367803 ALBERTA LTD. o/a HOMES  
COMMUNITIES

Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Signature of Drew Atkins )  
Witnessed by: )  
\_\_\_\_\_ )




TERRY L. GZECHOWSKYJ

  
DREW ATKINS

**Schedule "A"**

---



Cash Flow Summary

1367803 Alberta Limited  
 Consolidated 12-Week Cash Flow Forecast  
 January 5 to March 29, 2019

	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Total
Week Ending	11/01/2019	18/01/2019	25/01/2019	01/02/2019	08/02/2019	15/02/2019	22/02/2019	01/03/2019	08/03/2019	15/03/2019	22/03/2019	29/03/2019	
(CAD \$000's)													
<b>Operating Receipts</b>													
Deposits on Lot Sales	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Proceeds from Lot Sale Closings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Operating Receipts</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Operating Disbursements</b>													
Land Development	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 16
<b>Net Change in Cash from Operations</b>	<b>\$ (208)</b>	<b>\$ (93)</b>	<b>\$ (9)</b>	<b>\$ (149)</b>	<b>\$ (9)</b>	<b>\$ (9)</b>	<b>\$ (9)</b>	<b>\$ (149)</b>	<b>\$ (9)</b>	<b>\$ (9)</b>	<b>\$ (9)</b>	<b>\$ (79)</b>	<b>\$ (745)</b>
<b>Restructuring Fees</b>													
Advances from ATB, Holmes	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 120
Advances	\$ 219	\$ 104	\$ 20	\$ 160	\$ 20	\$ 20	\$ 20	\$ 160	\$ 20	\$ 20	\$ 20	\$ 90	\$ 873
Fees & Interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Net Change in Cash</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 8</b>
Opening Available Cash	\$ -	\$ 1	\$ 1	\$ 2	\$ 2	\$ 3	\$ 3	\$ 4	\$ 4	\$ 5	\$ 6	\$ 6	\$ 6
<b>Total Net Change in Cash Flow</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 1</b>
<b>Ending Available Cash</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 2</b>	<b>\$ 2</b>	<b>\$ 3</b>	<b>\$ 3</b>	<b>\$ 4</b>	<b>\$ 4</b>	<b>\$ 5</b>	<b>\$ 6</b>	<b>\$ 6</b>	<b>\$ 7</b>	<b>\$ 7</b>

Cash Flow - Operating

1367803 Alberta Limited  
 Consolidated 12-Week Cash Flow Forecast  
 January 5 to March 29, 2019

	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Total
(CAD)	11/01/2019	18/01/2019	25/01/2019	01/02/2019	08/02/2019	15/02/2019	22/02/2019	01/03/2019	08/03/2019	15/03/2019	22/03/2019	29/03/2019	
<b>Operating Disbursements</b>													
Office Admin	\$ 400	\$ 400	\$ 400	\$ 400	\$ 400	\$ 400	\$ 400	\$ 400	\$ 400	\$ 400	\$ 400	\$ 400	\$ 4,800
Accounting	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 10,800
Office Supplies	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 600
Banking Charges	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ -
<b>Total Operating Disbursements</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 1,450</b>	<b>\$ 16,200</b>
<b>Office Admin</b>													
Rate per hour	\$ 40												
Hours per week	10												
<b>Accounting</b>													
Rate per hour	\$ 60												
Hours per week	15												
<b>Banking Charges</b>													
Bank Fees	\$ 100												
<b>Operating Assumptions</b>													
Office Admin	- Existing admin support, contracted hourly directly by 1367803 Alberta Ltd., based on existing contractor rate and historical billings.												
Accounting	- Existing accounting support, contracted hourly directly by 1367803 Alberta Ltd., based on contract signed with contractor effective September 20, 2018.												
Office Supplies	- Estimate provided by Office Admin contractor, based on historical.												
Banking Charges	- Estimating cost for current operating accounts weekly total fees, based on historical.												



Cash Flow - Land Development

1367803 Alberta Limited  
 Consolidated 12-Week Cash Flow Forecast  
 January 5 to March 29, 2019

	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Total
Week Ending	11/01/2019	18/01/2019	25/01/2019	01/02/2019	08/02/2019	15/02/2019	22/02/2019	01/03/2019	08/03/2019	15/03/2019	22/03/2019	29/03/2019	
(CAD \$000's)													
<b>Land Development</b>													
Management Consultant	\$ 8.0	\$ 8.0	\$ 8.0	\$ 8.0	\$ 8.0	\$ 8.0	\$ 8.0	\$ 8.0	\$ 8.0	\$ 8.0	\$ 8.0	\$ 8.0	\$ 96.0
Utility Line Relocation - AltaLink	\$ 137.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 137.5
Plan Lotting & Survey -Tronnes Geomatic	\$ 53.0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 53.0
Engineering - Jubilee Engineering	\$ -	\$ -	\$ -	\$ 140.0	\$ -	\$ -	\$ -	\$ 140.0	\$ -	\$ -	\$ -	\$ -	\$ 350.0
Roundabout Design - Bunt Engineering	\$ 8.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8.5
Fortis Distribution Review	\$ -	\$ 35.0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35.0
AEP Payment	\$ -	\$ 48.6	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 48.6
<b>Total Land Development</b>	<b>\$ 207.0</b>	<b>\$ 91.6</b>	<b>\$ 8.0</b>	<b>\$ 148.0</b>	<b>\$ 8.0</b>	<b>\$ 8.0</b>	<b>\$ 8.0</b>	<b>\$ 148.0</b>	<b>\$ 8.0</b>	<b>\$ 8.0</b>	<b>\$ 8.0</b>	<b>\$ 78.0</b>	<b>\$ 728.6</b>

Land Development Assumptions

Management Consultant	- Average weekly expense for Management Consultant.
Utility Line Relocation - AltaLink	- August 9, 2018 letter agreement between AltaLink and AFPL, approved by AUC (file #23556), for AFPL portion of costs for AltaLink 13L transmission line rebuild / developer requested relocation around Wind
Plan Lotting & Survey -Tronnes Geomatic	- Lot survey contractor due payment for lot survey plans for phase 1, based on quote from vendor.
Engineering - Jubilee Engineering	- Engineering contractor due payment for engineering for phase 1, based on quote from vendor.
Roundabout Design - Bunt Engineering	- Engineering contractor engaged to design Town-requested roundabout for phase 1, now due payment before release of work, based on invoice from vendor.
Fortis Distribution Review	- Fortis review of electrical distribution design, based on invoice from vendor.
Alberta Environment & Parks - Wetlands	- Payment to AEP for approval of Wind Walk works affecting existing water bodies, based on AEP permit #00388892-00-00, granted August 2, 2018.
Items to be funded by ATB Advance in G	\$ 495.1

Cash Flow - Legal

1367803 Alberta Limited  
 Consolidated 12-Week Cash Flow Forecast  
 January 5 to March 29, 2019

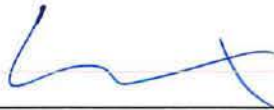
(CAD \$000's)	Week Ending	Week 1 11/01/2019	Week 2 18/01/2019	Week 3 25/01/2019	Week 4 01/02/2019	Week 5 08/02/2019	Week 6 15/02/2019	Week 7 22/02/2019	Week 8 01/03/2019	Week 9 08/03/2019	Week 10 15/03/2019	Week 11 22/03/2019	Week 12 29/03/2019	Total
<b>Restructuring Fees</b>														
Counsel - Applicants	\$	10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	120.0
<b>Total Restructuring Fees</b>	\$	10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	\$ 10.0	120.0
<b>Restructuring Assumptions</b>														
Counsel - Applicants	- Estimate for Miles Davison, as provided by same													

Cash Flow - ATB, Holmes Advance

1367803 Alberta Limited  
 Consolidated 12-Week Cash Flow Forecast  
 January 5 to March 29, 2019

	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Total
Week Ending	11/01/2019	18/01/2019	25/01/2019	01/02/2019	08/02/2019	15/02/2019	22/02/2019	01/03/2019	08/03/2019	15/03/2019	22/03/2019	29/03/2019	
(CAD \$000's)													
<b>Advance from ATB Financial</b>													
Advance	\$ 61.50	\$ 83.60	\$ -	\$ 140.00	\$ -	\$ -	\$ -	\$ 140.00	\$ -	\$ -	\$ -	\$ 70.00	\$ 495.10
Principal Repayment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
12-Month Interest Reserve	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fees & Interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total ATB Advance</b>	<b>\$ 61.5</b>	<b>\$ 145.1</b>	<b>\$ 145.1</b>	<b>\$ 285.1</b>	<b>\$ 285.1</b>	<b>\$ 285.1</b>	<b>\$ 285.1</b>	<b>\$ 425.1</b>	<b>\$ 425.1</b>	<b>\$ 425.1</b>	<b>\$ 425.1</b>	<b>\$ 495.1</b>	<b>\$ 495.1</b>
Interest Rate	0.00%												
Amortization	Interest Only												
Commitment Fee	0%												
Other Fees	\$ -												
Monthly Monitoring Fee	\$ -												
<b>Advance from Holmes Holdings</b>													
Advance	\$ 157.5	\$ 20.0	\$ 20.0	\$ 20.0	\$ 20.0	\$ 20.0	\$ 20.0	\$ 20.0	\$ 20.0	\$ 20.0	\$ 20.0	\$ 20.0	\$ 377.5
Principal Repayment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
12-Month Interest Reserve	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fees & Interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Holmes Advance</b>	<b>\$ 157.5</b>	<b>\$ 177.5</b>	<b>\$ 197.5</b>	<b>\$ 217.5</b>	<b>\$ 237.5</b>	<b>\$ 257.5</b>	<b>\$ 277.5</b>	<b>\$ 297.5</b>	<b>\$ 317.5</b>	<b>\$ 337.5</b>	<b>\$ 357.5</b>	<b>\$ 377.5</b>	<b>\$ 377.5</b>
Interest Rate	0%												
Amortization	Interest Only												
Underwriting Fee	0%												
Exit Fee	0%												
Weekly Management & Legal	\$ 20												

THIS IS EXHIBIT "R"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 16  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

350 7th Avenue SW, Suite 3400  
Calgary, Alberta T2P 3N9  
Canada

T +1 403 261 5350  
+1 877 336 5350  
F +1 403 261 5351  
fasken.com

April 29, 2019  
File No.: 279839.00045/20066

**Travis P. Lysak**  
Direct +1 403 261 5501  
tlysak@fasken.com

**Via Email:** [tczech@milesdavison.com](mailto:tczech@milesdavison.com)

### **Miles Davison LLP**

900, 517 – 10th Avenue S.W.  
Calgary, Alberta T2R 0A8  
**Attention: Terry Czechowskyj**

Dear Sir:

**Re: ATB Financial (“ATB”) v Alberta Foothills Properties Ltd. (“AFPL”), 1367803 Alberta Ltd. O/A Holmes Communities (“136 Ltd”), and Drew Atkins**

Further to the recent discussions between AFPL, 136 Ltd., and Mr. Atkins (collectively, the “**Debtor Group**”) and ATB with respect to ATB’s continued forbearance from enforcing its rights against the Debtor Group, most recently pursuant to a Letter Agreement dated December 21, 2019 between ATB and the Debtor Group (the “**Letter Agreement**”), this Amending Letter Agreement contains amendments to the Letter Agreement agreed upon between ATB and the Debtor Group.

All capitalized terms not defined herein shall take the meaning ascribed to them in the Letter Agreement.

### **Extension of Forbearance Period**

The Forbearance Period is hereby extended from April 15, 2019 to August 31, 2019, or such later date agreed to in writing by ATB, in its sole discretion.

### **Forbearance Fee**

Upon execution of this Amending Letter Agreement, ATB shall be entitled to charge a fee in the amount of \$10,000. Such fee shall be immediately added to the Indebtedness and be secured by any security granted by the Debtor Group, including the Security.

### **Cash Flow and Funding**

The Cash Flow attached as Schedule “A” to the Letter Agreement is hereby entirely replaced with the cash flow summary attached hereto as Schedule “A”.

## Milestones

The Milestones and the completion deadlines set out in the table included on page 2 of the Letter Agreement are replaced with the following Milestones and completion deadlines:

<b>Milestone</b>	<b>Milestone Completion Deadline</b>
Submission of the first draft of the Wind Walk Phase 1 Designs respecting any utilities other than electricity to the MPC.	May 30, 2019
Completion of the final Wind Walk Phase 1 Detailed Design and submission to the MPC.	June 30, 2019
Completion of the Wind Walk Phase 1 Legal Condominium Plan for the purposes of submission to the Land Titles Office.	July 15, 2019

## General

Except as amended by this Amending Letter Agreement hereof, all terms and conditions of the Letter Agreement shall continue in full force and effect unamended and are hereby ratified and confirmed in every respect. The Debtor Group hereby consents and agrees to the amendments to the Letter Agreement, as provided in this Amending Letter Agreement.

In the event there is any inconsistency or conflict between the provisions of this Amending Letter Agreement and the provisions of the Letter Agreement, the provisions of this Amending Letter Agreement and the intent of the parties evidenced hereby shall prevail.

This Amending Letter Agreement will be governed by the laws of the Province of Alberta and the federal laws of Canada applicable therein and the parties hereby attorn to the jurisdiction of the Court of Queen's Bench of Alberta, Judicial Centre of Calgary.

This Amending Letter Agreement may be executed in counterparts by the parties hereto and such execution shall be valid for all intents and purposes and the executed counterparts shall together form one document and any signed counterpart transmitted by facsimile or electronic means shall be as valid and effectual as if it were an originally signed copy of such counterpart.

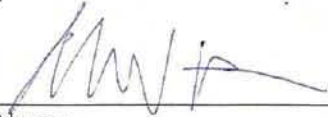
Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**

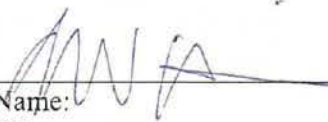
Travis P. Lysak  
TL/mt

The foregoing Amending Letter Agreement is hereby agreed to this 30 day of April, 2019 by:

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

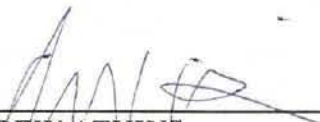
**1367803 ALBERTA LTD. o/a HOMES COMMUNITIES**

Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Signature of Drew Atkins  
Witnessed by:

  
\_\_\_\_\_  
Douglas V. Allison

)  
)  
)  
)

  
\_\_\_\_\_  
**DREW ATKINS**

**Schedule "A"**





THIS IS EXHIBIT "S"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

350 7th Avenue SW, Suite 3400  
Calgary, Alberta T2P 3N9  
Canada

T +1 403 261 5350  
+1 877 336 5350  
F +1 403 261 5351  
fasken.com

October 3, 2019  
File No.: 279839.00045/20066

Travis P. Lysak  
Direct +1 403 261 5501  
tlysak@fasken.com

Via Email: tczech@milesdavison.com

---

**Miles Davison LLP**

900, 517 – 10th Avenue S.W.  
Calgary, Alberta T2R 0A8  
**Attention: Terry Czechowskyj**

Dear Sir:

**Re: ATB Financial (“ATB”) v Alberta Foothills Properties Ltd. (“AFPL”), 1367803  
Alberta Ltd. O/A Holmes Communities (“136 Ltd”), and Drew Atkins**

Further to the recent discussions between AFPL, 136 Ltd., and Mr. Atkins (collectively, the “**Debtor Group**”) and ATB with respect to ATB’s continued forbearance from enforcing its rights against the Debtor Group, most recently pursuant to a Letter Agreement dated December 21, 2018 between ATB and the Debtor Group, as amended by an Amending Letter Agreement dated April 29, 2019 (collectively as amended, the “**Letter Agreement**”), this Amending Letter Agreement contains amendments to the Letter Agreement agreed upon between ATB and the Debtor Group.

All capitalized terms not defined herein shall take the meaning ascribed to them in the Letter Agreement.

**Extension of Forbearance Period**

The Forbearance Period is hereby extended from August 31, 2019 to November 15, 2019, or such later date agreed to in writing by ATB, in its sole discretion.

**Forbearance Fee**

Upon execution of this Amending Letter Agreement, ATB shall be entitled to charge a fee in the amount of \$10,000. Such fee shall be immediately added to the Indebtedness and be secured by any security granted by the Debtor Group, including the Security.

**Cash Flow and Funding**

The Cash Flow attached as Schedule “A” to the Letter Agreement is hereby entirely replaced with the cash flow summary attached hereto as Schedule “A”.



**Milestones**

The Milestones and the completion deadlines set out in the table included on page 2 of the Letter Agreement are replaced with the following Milestones and completion deadlines:

<b>Milestone</b>	<b>Milestone Completion Deadline</b>
Completion and Approval by the Town of Okotoks of the Wind Walk Phase 1 Design, Utility Line Assignment, Landscape, Legal Survey, Traffic Assessment and Noise Analysis	October 31, 2019

**Funding**

In the event AFPL has not secured third party financing sufficient to payout all indebtedness and obligations owed by the Debtor Group to ATB in a form, and on terms, satisfactory to ATB in its sole discretion, on or before October 31, 2019, AFPL agrees to list the Wind Walk property for sale, on or before November 15, 2019, with the CBRE Limited in accordance with the CBRE Limited Confidential Strategic Marketing & Advisory Proposal and on terms substantially in the form of the exclusive sale listing agreement attached hereto as Schedule “B”.

**General**

Except as amended by this Amending Letter Agreement hereof, all terms and conditions of the Letter Agreement shall continue in full force and effect unamended and are hereby ratified and confirmed in every respect. The Debtor Group hereby consents and agrees to the amendments to the Letter Agreement, as provided in this Amending Letter Agreement.

In the event there is any inconsistency or conflict between the provisions of this Amending Letter Agreement and the provisions of the Letter Agreement, the provisions of this Amending Letter Agreement and the intent of the parties evidenced hereby shall prevail.

This Amending Letter Agreement will be governed by the laws of the Province of Alberta and the federal laws of Canada applicable therein and the parties hereby attorn to the jurisdiction of the Court of Queen’s Bench of Alberta, Judicial Centre of Calgary.

This Amending Letter Agreement may be executed in counterparts by the parties hereto and such execution shall be valid for all intents and purposes and the executed counterparts shall together form one document and any signed counterpart transmitted by facsimile or electronic means shall be as valid and effectual as if it were an originally signed copy of such counterpart.

da

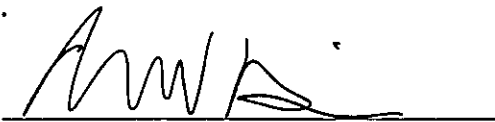
Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**


Travis P. Lysak  
TL/mt

The foregoing Amending Letter Agreement is hereby agreed to this 7th day of October, 2019 by:

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per:   
Name:  
Title:


**1367803 ALBERTA LTD. o/a HOMES COMMUNITIES**

Per:   
Name:  
Title:

Signature of Drew Atkins  
Witnessed by:



)  
)  
)  
)

  
**DREW ATKINS**

*Na.*

**Schedule "A"**  
**Cash Flow**

[See attached]

*du*  
▼

**Schedule "B"**  
**Form of Exclusive Sale Listing Agreement**

[See attached]



THIS IS EXHIBIT "T"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

# FASKEN

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

350 7th Avenue SW, Suite 3400  
Calgary, Alberta T2P 3N9  
Canada

T +1 403 261 5350  
+1 877 336 5350  
F +1 403 261 5351  
[fasken.com](http://fasken.com)

December 2, 2019  
File No.: 279839.00045/20066

**Travis P. Lysak**  
Direct +1 403 261 5501  
[tlysak@fasken.com](mailto:tlysak@fasken.com)

**Via Email:** [tczech@milesdavison.com](mailto:tczech@milesdavison.com)

## **Miles Davison LLP**

900, 517 – 10th Avenue S.W.  
Calgary, Alberta T2R 0A8  
**Attention: Terry Czechowskyj**

Dear Sir:

**Re: ATB Financial (“ATB”) v Alberta Foothills Properties Ltd. (“AFPL”), 1367803 Alberta Ltd. O/A Holmes Communities (“136 Ltd”), and Drew Atkins**

Further to the recent discussions between AFPL, 136 Ltd., and Mr. Atkins (collectively, the “**Debtor Group**”) and ATB with respect to ATB’s continued forbearance from enforcing its rights against the Debtor Group, most recently pursuant to a Letter Agreement dated December 21, 2018 between ATB and the Debtor Group, as amended by an Amending Letter Agreement dated October 3, 2019 (collectively as amended, the “**Letter Agreement**”), this Amending Letter Agreement contains amendments to the Letter Agreement agreed upon between ATB and the Debtor Group.

And whereas an Escrow Agreement dated November 7, 2019 (the “**Escrow Agreement**”) has been entered into between AFPL, Barbican Capital Partners, LLC (“**Barbican**”) and MLT Aikins LLP in relation to a potential commitment letter between AFPL and Barbican.

All capitalized terms not defined herein shall take the meaning ascribed to them in the Letter Agreement.

### **Extension of Forbearance Period**

The Forbearance Period is hereby extended from November 15, 2019 to July 15, 2020, or such later date agreed to in writing by ATB, in its sole discretion.

### **Forbearance Fee**

Upon execution of this Amending Letter Agreement, ATB shall be entitled to charge a fee in the amount of \$10,000. Such fee shall be immediately added to the indebtedness and be secured by any security granted by the Debtor Group, including the Security.





# FASKEN

## **Financing**

On or before December 3, 2019, AFPL shall confirm in writing with ATB that the Escrow Agreement has been executed and is in force, and that the Escrow Amount as defined in the Escrow Agreement has been paid to MLT Aikins LLP.

On or before December 11, 2019, AFPL shall have entered into a commitment letter with Barbican (the "**Commitment Letter**") and provide a copy of the same to ATB. The Commitment Letter must be in an amount sufficient for AFPL to pay out all indebtedness and obligations owed by the Debtor Group to ATB and must confirm that the funds to be advanced will be utilized to pay out the indebtedness owed to ATB in full.

On or before January 6, 2020, the Debtor Group shall have repaid all indebtedness and obligations owed by it to ATB.

In the event that any of the foregoing deadlines are not met, and ATB has not agreed in writing to extend such deadlines, AFPL shall list the lands comprising Wind Walk Phase 1 with CBRE Limited (on terms substantially in the form of the Exclusive Sale Listing Agreement attached as Schedule "B" to the prior Amending Letter Agreement dated October 3, 2019 and executed by the parties hereto) on or before January 15, 2020 for a period of 180 days (the "**Listing Period**").

## **General**

Any failure in the performance by the Debtor Group of its obligations under this Amending Letter Agreement shall be a Default under the Letter Agreement. The early termination of the Listing Period will also be a Default under the Letter Agreement.

Except as amended by this Amending Letter Agreement hereof, all terms and conditions of the Letter Agreement shall continue in full force and effect unamended and are hereby ratified and confirmed in every respect. The Debtor Group hereby consents and agrees to the amendments to the Letter Agreement, as provided in this Amending Letter Agreement.

In the event there is any inconsistency or conflict between the provisions of this Amending Letter Agreement and the provisions of the Letter Agreement, the provisions of this Amending Letter Agreement and the intent of the parties evidenced hereby shall prevail.

This Amending Letter Agreement will be governed by the laws of the Province of Alberta and the federal laws of Canada applicable therein and the parties hereby attorn to the jurisdiction of the Court of Queen's Bench of Alberta, Judicial Centre of Calgary.



# FASKEN

This Amending Letter Agreement may be executed in counterparts by the parties hereto and such execution shall be valid for all intents and purposes and the executed counterparts shall together form one document and any signed counterpart transmitted by facsimile or electronic means shall be as valid and effectual as if it were an originally signed copy of such counterpart.

Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**

Travis P. Lysak  
TL/mt

The foregoing Amending Letter Agreement is hereby agreed to this \_\_\_\_ day of \_\_\_\_\_, 2019 by:

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per: \_\_\_\_\_  
Name:  
Title:

**1367803 ALBERTA LTD. o/a HOMES COMMUNITIES**

Per: \_\_\_\_\_  
Name:  
Title:

Signature of Drew Atkins )  
Witnessed by: )  
\_\_\_\_\_) )

\_\_\_\_\_  
**DREW ATKINS**



THIS IS EXHIBIT "U"  
Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426



**FTI Consulting Canada**

Suite 1610  
520 – 5<sup>th</sup> Avenue S.W.  
Calgary, AB T2P 3R7

T: 403.454.6031  
F: 403.232.6116

fticonsulting.com

July 24, 2020

ATB Financial  
Suite 600, 585 8<sup>th</sup> Ave S.W.  
Calgary, AB  
T2P 1G1

**Re: Alberta Foothills Property Ltd. (the “Company”)**

Dear Sirs/Mesdames:

**1. Introduction**

This letter confirms that we, FTI Consulting Canada Inc. (“FTI”), have been retained by you, ATB Financial in your capacity as the Lender (the “Lender”) under certain agreements with the Company (such agreements, as amended and in effect from time to time, together with related agreements and instruments, the “Credit Agreements”) to provide certain financial advisory and consulting services (the “Services”). The Services will be provided solely for you and not for the Company, any of its principals or any holder of other debt or equity of the Company or any other party. This letter of engagement and the attached Standard Terms and Conditions constitute the engagement contract (the “Engagement Contract”) pursuant to which the Services will be provided.

**2. Scope of Our Services**

The Services, to be performed at your direction, may include the following:

- Review the Company’s business plan and any related financial projections provided by Company’s management and the related assumptions. Review the Company’s short-term cash flow forecast and liquidity requirements to the end of 2020;
- Assess the nature and value of the Company’s assets which serve or could serve as collateral to support the Company’s credit exposure, including review of the Company’s financial position and the security position of the Lender.
- Assess any potential legal or practical priority creditors that could affect the Lender’s security position including a review the Company’s creditor profile including subcontractor accounts payable, potential builders’ lien claimants, property and municipal taxes, municipal letters of credit, statutory liabilities, customer deposits, deficiencies and warranty claims;
- Review of marketing plans including status of any builder lot purchase agreements, customer sales agreements, marketing plans and projected absorption;
- Review status of work-in-progress including site servicing, lot registrations, municipal approvals and construction in progress, if applicable;



- Providing strategic, financial and restructuring analysis and advice in respect of the Company;
- Review and report on the Company’s strategic alternatives process and/or sale process; and
- Such other services as we may mutually agree.

The Services may be performed by FTI or by any affiliate of FTI, as FTI shall determine. References herein to FTI or its employees shall be deemed to apply also, unless the context shall otherwise indicate, to FTI’s affiliates and their employees.

~~The Services, as outlined above, are subject to change as mutually agreed between us.~~

In order for us to provide the Services, it will be necessary for our personnel to have access to certain books, records and reports of the Company and to have discussions with its personnel. We understand that you will undertake to provide the necessary access to the Company’s management and other personnel and to its books, records, reports and other information and that the Company has agreed to cooperate with us and to make available its personnel and such books, records, reports and other information.

We will perform the Services in a manner which we believe will permit the business operations of the Company to continue in an orderly manner, subject to the requirements of the Engagement. However, our personnel will likely need to be on site to review data located at the offices of the Company and to discuss matters with its personnel.

You hereby acknowledge that in the event that FTI is appointed in relation to the Company as an officer of the Court pursuant to any insolvency, restructuring or similar statute, our primary responsibility will be to the Court and we will have duties to all stakeholders.

**3. Fees**

Fees in connection with the Engagement will be based upon the time incurred providing the Services, multiplied by our standard hourly rates applicable in Canada, summarized as follows:

	<u>Per Hour CAD\$</u>
Senior Managing Directors	\$675 - 800
Directors / Senior Directors / Managing Directors	425 - 650
Consultants/Senior Consultants	285 - 405
Administrative / Paraprofessionals	115 - 120

Hourly rates are generally revised annually. To the extent this engagement requires services of our international divisions or personnel, the time will be multiplied by their standard hourly rates applicable on international engagements. We do not provide any assurance regarding the outcome of our work and our fees will not be contingent on the results of such work. Our fees will be for the account of the Company, guaranteed by you and are payable on presentation of invoice.



In addition to the fees outlined above, FTI will bill for reasonable allocated and direct expenses which are likely to be incurred on your behalf during this Engagement. Allocated expenses include the cost of items which are not billed directly to the engagement, including administrative support and other overhead expenses that are not billed through as direct reimbursable expenses, and are calculated at 3% of FTI's standard professional rates. Direct expenses include reasonable and customary out-of-pocket expenses which are billed directly to the engagement such as certain telephone, overnight mail, messenger, travel, meals, accommodations and other expenses specifically related to this engagement. Invoices will also include all applicable taxes.

Unless directed by you to the contrary, we will submit to the Company, on a weekly basis (or at such other frequency as we may determine as appropriate in our sole discretion), invoices payable upon receipt, for our fees and expenses incurred in connection with the Engagement, with copies provided to you. It is our understanding that all invoices will be paid by the Company. However, you agree that the payment of our invoices will ultimately be your responsibility in the event that the Company fails or refuses to pay such invoices (or if any payments are made but are subsequently avoided or disgorged). We agree to repay you to the extent the Company subsequently remits payments to us.

FTI reserves the right to immediately stop work should you fail to pay our outstanding fees and expenses within a reasonable period of time of being notified of the Company's failure to pay.

In addition, if FTI and/or any of its employees are required to testify or provide evidence at or in connection with any judicial or administrative proceeding relating to this matter, FTI will be compensated by you at its regular hourly rates and reimbursed for reasonable allocated and direct expenses (including counsel fees) with respect thereto.

#### **4. Terms and Conditions**

The attached terms and conditions set forth the duties of each party with respect to the Services. Further, this letter and the Standard Terms and Conditions attached comprise the entire Engagement Contract for the provision of the Services to the exclusion of any other express or implied terms, whether expressed orally or in writing, including any conditions, warranties and representations, and supersede all previous proposals, letters of engagement, undertakings, agreements, understandings, correspondence and other communications, whether oral or written, regarding the Services.

#### **5. Conflicts of Interest**

Based on the list of interested parties (the "Potentially Interested Parties") provided by you, we have undertaken a limited review of our records to determine FTI's professional relationships with the Company and the Potentially Interested Parties. From the results of such review, we were not made aware of any conflicts of interest or relationships that we believe would preclude us from performing the Services.

As you know, however, FTI and its affiliates constitute a large consulting firm with numerous offices throughout the world and are regularly engaged by new clients, which may include one or more of the Potentially Interested Parties.



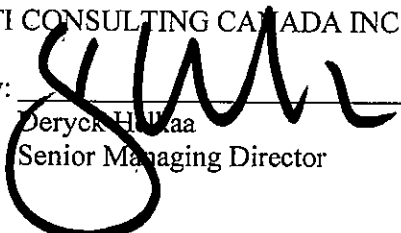
**6. Acknowledgement and Acceptance**

Please acknowledge your acceptance of the terms of the Engagement Contract by signing both the confirmation below and the attached Standard Terms and Conditions and returning a copy of each to us at the above address.

If you have any questions regarding this letter or the attached Standard Terms and Conditions, please do not hesitate to contact Deryck Helkaa at 403-454-6031.

Yours faithfully,

FTI CONSULTING CANADA INC.

By:   
Deryck Helkaa  
Senior Managing Director

**Confirmation of Terms of Engagement**

**We agree to engage FTI Consulting Canada Inc. upon the terms set forth herein and in the attached Standard Terms and Conditions.**

ATB Financial  
DocuSigned by:

By:   
Name: Alexandra Dudek

Title: Associate Director

Date: 2020-07-28 | 3:34 PM MDT



**Acknowledgement and Agreement of Company**

For consideration received, the receipt and sufficiency of which are hereby irrevocably acknowledged, each of the undersigned hereby acknowledges, consents and agrees to the terms of this letter and the engagement of FTI under the terms and conditions above and shall provide its full co-operation. It is understood and agreed that notwithstanding this engagement, the remedies available to the Lender under the terms of the Credit Agreements, including the security and guarantees held by the Lender, remain in full force and effect. None of the existing defaults of the Company are waived and all rights and remedies of the Lender are reserved and preserved. In particular, the undersigned acknowledges and agrees that notwithstanding the engagement of FTI hereunder, the Lender has not agreed to forbear from enforcing any of its remedies as against the Company. It is specifically acknowledged that the engagement of FTI hereunder is not an act of enforcement of security by the Lender and that the Company remains solely responsible for the management and operations of its business during the course of is engagement.

For the same consideration, it is also understood and agreed that, subject to any applicable legal requirements, the Lender may, if considered necessary or appropriate, appoint FTI as its Receiver, Receiver and Manager, or agent for the purpose of realizing upon its security and that FTI may, if necessary or desirable, accept any appointment contemplated by the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or similar legislation and that in the course of any such engagement, FTI may use the information acquired by it in the course of this engagement. Nothing herein shall constitute or be deemed to constitute consent by the Company to any such proceeding; however, the Company agrees that it shall not object to any such appointment of FTI on the basis of this engagement.

For the same consideration, the undersigned hereby indemnifies FTI from any loss, costs, damages or expenses FTI may suffer by reason of any actions, lawsuits or legal proceedings taken or brought against it an any time with respect to the engagement or any act FTI has committed or undertaken, or shall commit or undertake, provided that such act was or is committed or undertaken within the scope of this engagement, excepting only those acts caused by or resulting from FTI's intentional misconduct or gross negligence.

Alberta Foothills Property Ltd.

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_



## FTI CONSULTING CANADA INC

### STANDARD TERMS AND CONDITIONS

The following are the Standard Terms and Conditions on which we will provide the Services to you set forth within the attached letter of Engagement. The Engagement letter and the Standard Terms and Conditions (collectively the "Engagement Contract") form the entire agreement between us relating to the Services and replace and supersede any previous proposals, letters of engagement, undertakings, agreements, understandings, correspondence and other communications, whether written or oral, regarding the Services. The headings and titles in the Engagement Contract are included to make it easier to read but do not form part of the Engagement Contract.

#### 1. Reports and Advice

1.1 **Use and purpose of advice and reports** - Any advice given or report issued by us is provided solely for the use and benefit of the Lender and only in connection with the purpose in respect of which the Services are provided. Unless required by law, or as otherwise provided in Clause 4.3 of the Standard Terms and Conditions, neither the Company nor the Lender shall provide any advice given or report issued by us to any third party or refer to us or the Services without our prior written consent. In no event, regardless of whether consent has been provided, shall we assume any responsibility to any third party to which any advice or report is disclosed or otherwise made available.

#### 2. Information and Assistance

2.1 **No assurance on financial data** - While our work may include an analysis of financial and accounting data, the Services will not include an audit, compilation or review of any kind of any financial statements or components thereof. Company management will be responsible for any and all financial information they provide us during the course of the Engagement, and we will not examine or compile or verify any such financial information. Moreover, the circumstances of the Engagement may cause our advice to be limited in certain respects based upon, among other matters, the extent of sufficient and available data and the opportunity for supporting investigations in the time period. Accordingly, as part of the Engagement, we will not express any opinion or other form of assurance on financial statements of the Company.

2.2 **Prospective financial information** - In the event the Services involve prospective financial information, our work will not constitute an examination or compilation, or apply agreed-upon procedures, in accordance with standards established by the Canadian Institute of Chartered Accountants, the American Institute of Certified Public Accountants, or otherwise, and we will express no assurance of any kind on such information. There will usually be differences between estimated and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We will take no responsibility for the achievability of results or events projected or anticipated by the management of the Company.

#### 3. Additional Services

3.1 **Responsibility for other parties** - We shall have no responsibility for the work and fees of any other party engaged by you to provide services in connection with the Engagement regardless of whether such party was introduced to you by us. Except as provided in this Engagement Contract, we shall not be responsible for providing or reviewing the advice or services of any such third party, including advice as to legal, regulatory, accounting or taxation matters.

#### 4. Confidentiality

4.1 **Restrictions on confidential information** – Both parties (you on the one hand and FTI on the other hand) agree that any confidential information received from the other party shall only be used for the purposes of providing or receiving Services under this or any other contract between us. Except as provided below, neither party to this Engagement Contract will disclose the other party's confidential information to any third party without the other party's consent. Confidential information shall not include information that:

4.1.1 is or becomes generally available to the public other than as a result of a breach of an obligation under this Clause 4.1;

4.1.2 is acquired from a third party who, to the recipient party's knowledge, owes no obligation of confidence in respect of the information; or

4.1.3 is or has been independently developed by the recipient.

For greater certainty, nothing in this section 4.1 is intended to nor shall it create rights in favour of the company or any other party regarding any confidential information of the company or otherwise against you, FTI or any other party.

4.2 **Disclosing confidential information** - Notwithstanding Clause 4.1 above, either party to this Engagement Contract will be entitled to disclose confidential information of the other to a third party to the extent that this is required by valid legal process, provided that (and without breaching any legal or regulatory requirement) where reasonably practicable not less than 2 business days' notice in writing is first given to the other party.

4.3 **Disclosing confidential information to the Lender and its legal advisors** - Notwithstanding Clause 1.1 or 4.1 above, any party to this Engagement Contract will be entitled to disclose FTI's advice and written reports to its respective legal advisors, so long as such persons are restricted from further distributing such information without the prior written consent of the parties to this Engagement Contract. Further, upon execution of a non-reliance agreement satisfactory to FTI, prospective assignees may be provided written reports produced by FTI under this Engagement Contract.

4.4 **Internal quality reviews** – Notwithstanding the above, we may disclose any information referred to in this Clause 4 to any other FTI entity or use it for internal quality reviews.

4.5 **Citation of engagement** - Without prejudice to Clause 4.1 and Clause 4.2 above, to the extent our engagement is or becomes known to the public, we may cite the performance of the Services to our clients and prospective clients as an indication of our experience, unless we and you specifically agree otherwise in writing.

4.6 **Maintenance of workpapers** - Notwithstanding the above, we may keep one archival set of our working papers from the Engagement, including working papers containing or reflecting confidential information, in accordance with our professional standards and internal policies.

#### 5. Termination

5.1 **Termination of Engagement with notice** – Either party to this Engagement Contract may terminate the Engagement Contract for whatever reason upon written notice to the other party. Upon receipt of such notice, we will stop all work immediately. Regardless of the terminating party, all fees and expenses incurred by us through the date the termination notice is received will continue to be payable as provided in Clause 4 of the Engagement letter.

5.2 **Continuation of terms** - The terms of the Engagement that by their context are intended to be performed after termination or expiration of this Engagement Contract, including but not limited to, Clauses 3 and 4 of the Engagement letter, and Clauses 1.1, 4, 6 and 7 of the Standard Term and Conditions, are intended to survive such termination or expiration and shall continue to bind all parties.

## **6. Liability Limitation and Waiver of Jury Trial**

**6.1 Limitation of liability** - Except to the extent finally determined by a court of competent jurisdiction to have resulted from its own willful misconduct, gross negligence or fraudulent behavior, neither FTI, nor any of its subsidiaries, affiliates, officers, directors, principals, shareholders, agents, independent contractors or employees, shall be liable to you or any other party as a result of your retention of FTI, the execution and delivery of this Engagement Contract, the provision of Services or other matters relating to or arising from this Engagement Contract, whether a claim be in tort, contract or otherwise:

6.1.1 For any amount in excess of the total professional fees paid to FTI by the Company and/or the Lender under the Engagement Contract; or

6.1.2 For any consequential, indirect, lost profit or similar damages relating to FTI's Services provided under this Engagement.

Without limiting the generality of the foregoing, FTI will be deemed an agent of the Lender for the Services performed by FTI under this Engagement Contract, and will be entitled to the benefits of any and all liability limiting provisions of the Credit Agreements.

**6.2 WAIVER OF JURY TRIAL** -TO FACILITATE JUDICIAL RESOLUTION AND SAVE TIME AND EXPENSE, YOU AND FTI IRREVOCABLY AND UNCONDITIONALLY AGREE NOT TO DEMAND A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THE SERVICES OR ANY SUCH OTHER MATTER.

## **7. Governing Law and Jurisdiction**

The Engagement Contract shall be governed by and interpreted in accordance with the laws of Canada and the Province of Alberta, without giving effect to the choice of law provisions thereof. The Courts of Alberta sitting in Calgary shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning the Engagement Contract and any matter arising from it. The parties submit to the jurisdiction of such Courts and irrevocably waive any right they may have to object to any action being brought in these Courts, to claim that the action has been brought in an inconvenient forum or to claim that those Courts do not have jurisdiction.

FTI CONSULTING CANADA INC

THIS IS EXHIBIT "V"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

Luc Rollingson  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

# FASKEN

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

550 Burrard Street, Suite 2900  
Vancouver, British Columbia V6C 0A3  
Canada

T +1 604 631 3131  
+1 866 635 3131  
F +1 604 631 3232  
  
fasken.com

October 30, 2020  
File No.: 279839.00045/20066

**Travis P. Lysak**  
Direct +1 403 261 5501  
tlysak@fasken.com

**Via Email:** tczech@milesdavison.com

## **Miles Davison LLP**

900, 517 – 10th Avenue S.W.  
Calgary, Alberta T2R 0A8  
**Attention: Terry Czechowskyj**

Dear Sir:

**Re: Fourth Amendment to Letter Agreement  
ATB Financial (“ATB”) v Alberta Foothills Properties Ltd. (“AFPL”), 1367803  
Alberta Ltd. O/A Holmes Communities (“136 Ltd”), and Drew Atkins**

Further to the recent discussions between AFPL, 136 Ltd., and Mr. Atkins (collectively, the “**Debtor Group**”) and ATB with respect to ATB’s continued forbearance from enforcing its rights against the Debtor Group, most recently pursuant to a Letter Agreement dated December 21, 2018 between ATB and the Debtor Group, as amended by an Amending Letter Agreement dated April 29, 2019, as further amended by an Amending Letter Agreement dated October 3, 2019 (the “**Second Amending Letter Agreement**”), and as further amended by an Amending Letter Agreement dated December 2, 2019 (collectively, as amended, the “**Letter Agreement**”), this Fourth Amending Letter Agreement contains amendments to the Letter Agreement agreed upon between ATB and the Debtor Group.

The Letter Agreement, as amended by this Fourth Amending Letter Agreement, is hereafter referred to as the “**Amended Letter Agreement**”.

All capitalized terms not defined herein shall take the meaning ascribed to them in the Letter Agreement.

### **Extension of Forbearance Period**

The Forbearance Period is hereby extended from July 15, 2020 to February 28, 2021, or such later date agreed to in writing by ATB, in its sole discretion.

Subject to, and conditional upon, the Price Reduction being implemented (as defined below), the Forbearance Period shall be further extended from February 28, 2021 to April 30, 2021, or such later date agreed to in writing by ATB, in its sole discretion.

## **Listing and Repayment**

AFPL shall continue to list the lands comprising Wind Walk Phase 1 (the “**Lands**”) on terms substantially in the form of the Exclusive Commercial Listing Agreement dated June 2, 2020 between AFPL and Advent Commercial Real Estate Corp., operating as NAI Advent (the “**Listing**”) for a listing price (the “**Listing Price**”) of \$17,500,000.

In the event that the Debtor Group shall not have repaid all indebtedness and obligations owed by it to ATB on or before February 28, 2021, then AFPL shall, by February 28, 2021, reduce the Listing Price to \$15,000,000 (the “**Price Reduction**”).

Other than as contemplated in the foregoing, AFPL shall not materially amend the terms of the Listing without the prior written approval of ATB during the Forbearance Period.

## **Acknowledgments and Issuance of Demands and s. 244 Notices**

Notwithstanding:

- a) the First Extension and, if applicable, the Second Extension; and
- b) any previous terms of the Letter Agreement, pursuant to which ATB agreed to forbear from issuing Demands (as defined below) and Section 244 Notices (as defined below) during the Forbearance Period,

each of the Debtor Group agrees and acknowledges that:

- a) concurrent with the execution and delivery of this Fourth Amending Letter Agreement, ATB has issued, and each member of the Debtor Group has received: (i) a demand letter demanding the repayment of all indebtedness and obligations owed by such member of the Debtor Group to ATB (collectively, the “**Demands**”), and (ii) a Notice of Intention to Enforce on Security pursuant to Section 244 of the *Bankruptcy and Insolvency Act* (Canada) (collectively, the “**Section 244 Notices**”);
- b) all of the obligations owed by the Debtor Group to ATB, whether jointly or severally, are immediately due and payable;
- c) ATB is entitled to issue the Demands and the Section 244 Notices;
- d) ATB has made the Demands and no further demands are necessary on the Debtor Group;
- e) it is not a “farmer” for the purposes of the *Farm Debt Mediation Act*;
- f) it has, by execution of this Fourth Amending Letter Agreement, waived any right to any further notice or demand from ATB that it may otherwise have;
- g) all notice periods in the Demands continue to run notwithstanding the signing of this Fourth Amending Letter Agreement; and

- h) the 10 day time period in respect of the Section 244 Notices has commenced on the Effective Date and will end 10 days thereafter.

### **Further Acknowledgments**

Each of the Debtor Group further acknowledges and agrees that:

- a) it is bound by the terms of the amended and restated commitment letter executed on or about September 29, 2017, as amended, modified, supplemented, restated or replaced from time to time (the "**Commitment Letter**"), by the security documents granted by the Debtor Group in respect of the Commitment Letter, including, without limitation, the documents listed in Schedule "A" hereto (collectively, the "**Security Documents**"), and by the terms of the Amended Letter Agreement, and is bound to carry out the terms of each such document, including without limitation, any and all margin requirements;
- b) the Commitment Letter and the Security Documents continue to constitute valid and legally binding obligations of the Debtor Group and the Commitment Letter and the Security Documents are enforceable against the Debtor Group in accordance with the terms thereof; and
- c) where necessary or appropriate, the Security Documents have been registered in the appropriate public office or registry in order to preserve their validity and/or priority *vis à vis* third parties.

### **Consent Receivership Order**

In consideration of the provision of the Forbearance Period, as extended hereby, and concurrent with the execution of this Fourth Amending Letter Agreement, AFPL will deliver to ATB a consent receivership order, substantially in the form attached hereto as Schedule "B", duly signed by its counsel which will be held by ATB to be used on in accordance with the terms herein (the "**Consent Receivership Order**").

Upon the occurrence of a default in the performance or observance of any of the agreements, covenants or terms in the Amended Letter Agreement, the Commitment Letter (as defined below), as may be amended hereby, or under the terms of any of the Security Documents (as defined below):

- a) the Debtor Group irrevocably authorizes ATB and/or its counsel to complete any blanks or omissions in the Consent Receivership Order as ATB and/or its counsel deem necessary or desirable; and
- b) ATB may enter the Consent Receivership Order and appoint a receiver over the assets, properties, and undertakings of AFPL.

### **Covenants of the Debtor Group**

Each of the Debtor Group covenants and agrees that during the Forbearance Period it will not, without the prior written consent of ATB, make any filing or seek any creditor protection



(including a stay of proceedings) pursuant to the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), or otherwise at law or in equity (a "Filing"), and that any Filing made with respect to the such member of the Debtor Group will contain the following provisions:

- a) the terms of the Amended Letter Agreement will bind such Debtor Group member;
- b) ATB will not be affected by any stay or other order in such proceedings; and
- c) ATB will be an unaffected creditor in any plan or proposal unless ATB consents to being treated otherwise.

During the Forbearance Period, each of the Debtor Group irrevocably consents to the variation of any stay or order in such proceedings which would purport to affect ATB and will not make or support any application which would have the effect of:

- a) creating any charge ranking in priority to the Security Documents (as defined below) or in priority to any other rights of ATB; or
- b) altering or varying the rights of ATB under the terms of the Security Documents (as defined below) or this Fourth Amending Letter Agreement.

#### **Forbearance Fee**

Upon execution of this Fourth Amending Letter Agreement, ATB shall be entitled to charge a fee in the amount of \$20,000. Such fee shall be immediately added to the indebtedness and be secured by any security granted by the Debtor Group, including the Security Documents.

#### **General**

Any failure in the performance by the Debtor Group of its obligations under this Fourth Amending Letter Agreement shall be a Default under the Amended Letter Agreement.

Except as amended by this Fourth Amending Letter Agreement hereof, all terms and conditions of the Letter Agreement shall continue in full force and effect unamended and are hereby ratified and confirmed in every respect. The Debtor Group hereby consents and agrees to the amendments to the Letter Agreement, as provided in this Fourth Amending Letter Agreement.

In the event there is any inconsistency or conflict between the provisions of this Fourth Amending Letter Agreement and the provisions of the Letter Agreement, the provisions of this Fourth Amending Letter Agreement and the intent of the parties evidenced hereby shall prevail.

This Fourth Amending Letter Agreement will be governed by the laws of the Province of Alberta and the federal laws of Canada applicable therein and the parties hereby attorn to the jurisdiction of the Court of Queen's Bench of Alberta, Judicial Centre of Calgary.



This Fourth Amending Letter Agreement may be executed in counterparts by the parties hereto and such execution shall be valid for all intents and purposes and the executed counterparts shall together form one document and any signed counterpart transmitted by facsimile or electronic means shall be as valid and effectual as if it were an originally signed copy of such counterpart.

Yours truly,


**FASKEN MARTINEAU DuMOULIN LLP**



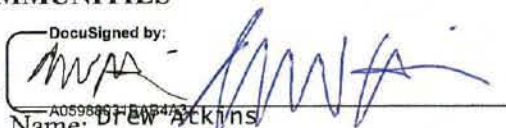
Travis P. Lysak  
TL/mt

The foregoing Fourth Amending Letter Agreement is hereby agreed to this \_\_\_\_ day of November, 2020 (the "Effective Date") by:

**ALBERTA FOOTHILLS PROPERTIES LTD.**

DocuSigned by:  
  
Per: \_\_\_\_\_  
Name: Drew Atkins  
Title: director

**1367803 ALBERTA LTD. o/a HOMES COMMUNITIES**

DocuSigned by:  
  
Per: \_\_\_\_\_  
Name: Drew Atkins  
Title: director

Signature of Drew Atkins )  
Witnessed by: )  
\_\_\_\_\_)  
Doug Allison

DocuSigned by:  
  
\_\_\_\_\_  
DREW ATKINS

**Schedule "A"**

- a) Collateral Mortgage dated August 17, 2015, as amended by a Mortgage Amending agreement dated July 12, 2016 and a Mortgage Amending agreement dated March 21, 2018 in the amount of \$30,000,000 granted by AFPL in favour of the ATB with respect to the lands legally described as Meridian 4, Range 29, Township 20, Section 16, NW Quarter.
- b) General Security Agreement dated August 17, 2015 granted by AFPL in favour of ATB.
- c) Debt Service and Cost Overrun Agreement dated August 17, 2015 granted by AFPL, 136 Ltd., and Drew Atkins in favour of ATB.
- d) Continuing Guarantee dated August 17, 2015 granted by Drew Atkins in favour of ATB for an amount limited to \$7,000,000.
- e) Continuing Guarantee dated August 17, 2015 executed by 136 Ltd. in favour of ATB for an unlimited amount.
- f) Amended and Restated Subordination and Standstill Agreement dated September, 2017 with respect to the all indebtedness of AFPL to 136 Ltd.
- g) Postponement and Assignment of Claims dated August 17, 2015 granted by 136 Ltd. in favour of ATB.

**Schedule "B"**  
**Form of Consent Receivership Order**

THIS IS EXHIBIT "W"  
Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

COURT FILE NUMBER

Clerk's Stamp

COURT Court of Queen's Bench Of Alberta

JUDICIAL CENTRE Calgary

PLAINTIFF / APPLICANT **ATB FINANCIAL**

DEFENDANT / RESPONDENT **ALBERTA FOOTHILLS PROPERTIES LTD.**

DOCUMENT **CONSENT RECEIVERSHIP ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Fasken Martineau DuMoulin LLP**  
Barristers and Solicitors  
3400 First Canadian Centre  
350 – 7 Avenue SW  
Calgary, Alberta T2P 3N9

Travis Lysak  
tlysak@fasken.com  
Tel: 403.261.5501  
Fax: 403.261.5351  
File Number: 279839.45

**DATE ON WHICH ORDER WAS PRONOUNCED:**

**NAME OF JUSTICE WHO MADE THIS ORDER:**

**LOCATION OF HEARING:** Calgary, Alberta

**UPON** the application of ATB Financial (“**ATB**”), in respect of Alberta Foothills Properties Ltd. (the “**Debtor**”); **AND UPON** having read the Application, the Affidavit of \_\_\_\_\_, filed; **AND UPON** reading the consent of \_\_\_\_\_ to act as receiver and manager (the “**Receiver**”) of the Debtor, filed; **AND UPON** hearing counsel for ATB, **AND UPON** noting the consent of the Debtor; **IT IS HEREBY ORDERED AND DECLARED THAT:**

## SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and service thereof is deemed good and sufficient.

## APPOINTMENT

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (“**BIA**”), \_\_\_\_\_ is hereby appointed Receiver, without security, of all of the Debtor’s current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate and all proceeds thereof (collectively, the “**Property**”).

## RECEIVER’S POWERS

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
  - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
  - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever

- basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
  - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
  - (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
  - (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
  - (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
  - (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
  - (k) to, market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
  - (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business; and

- (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required;

- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding Section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity;



- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver’s request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that

Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. No proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

**NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a Regulatory Body's investigation in respect of the Debtor or an action, suit or proceeding that is taken in respect of the Debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. "**Regulatory Body**" means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province.

**NO EXERCISE OF RIGHTS OF REMEDIES**

9. All rights and remedies (including, without limitation, set-off rights) against or in respect of the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" (as defined in the BIA), and further provided that nothing in this Order shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.
10. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such

party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Receiver at the first available opportunity.

#### **NO INTERFERENCE WITH THE RECEIVER**

11. No Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, except with the written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract (as such term is defined in the BIA) from closing out and terminating such contract in accordance with its terms.

#### **CONTINUATION OF SERVICES**

12. All Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Debtor is hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Receiver, and this Court directs that the Receiver shall be entitled to the continued use of the Debtor's current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor, or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

13. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date

of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

## **EMPLOYEES**

14. Subject to employees’ rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor’s behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47 (“**WEPPA**”).
15. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## LIMITATION ON ENVIRONMENTAL LIABILITIES

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver's appointment; or
  - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:
    - A. complies with the order, or
    - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
  - (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within

10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,

A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or

~~B. the court having jurisdiction in bankruptcy for the purposes of~~  
assessing the economic viability of complying with the order; or

(iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

#### **RECEIVER'S ACCOUNTS**

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4), 81.6(2) and 88 of the BIA.

19. The Receiver and its legal counsel shall pass their accounts from time to time.
20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **FUNDING OF THE RECEIVERSHIP**

21. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges set out in sections 14.06(7), 81.4(4), 81.6(2) and 88 of the BIA.
22. Neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.



24. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.
25. The Receiver shall be allowed to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

#### **ALLOCATION**

26. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

#### **GENERAL**

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or other jurisdiction in which the Property might be located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such

orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

31. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
32. ATB shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of ATB security or, if not so provided by the ATB's security, then on a substantial indemnity basis, including legal costs on a solicitor-client full indemnity basis, to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
33. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

## FILING

34. The Receiver shall establish and maintain a website in respect of these proceedings at \_\_\_\_\_ (the "**Receiver's Website**") and shall post there as soon as practicable:
  - (a) all materials prescribed by statute or regulation to be made publically available; and
  - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
35. The E-Service Guide of the Alberta Court of Queen's Bench Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service

of documents made in accordance with the Guide (which can be found on the Commercial List website at: \_\_\_\_\_) shall be valid and effective service. Subject to Rules 11.25 and 11.26, this Order shall constitute an order for substituted service pursuant to Rule 11.28 of the *Alberta Rules of Court*. Subject to paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. A Case Website shall be established in accordance with the Guide with the following URL \_\_\_\_\_.

36. Service of this Order shall be deemed good and sufficient by:

(a) serving the same on:

- (i) the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
- (ii) any other person served with notice of the application for this Order; and
- (iii) any other parties attending or represented at the application for this Order; and

(b) posting a copy of this Order on the Receiver's Website,

and service on any other person is hereby dispensed with.

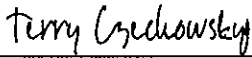
37. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

---

Justice of the Court of Queen's Bench  
of Alberta

**Consented to by: Miles Davison LLP**

Per:

DocuSigned by:  
  
22FB3EE6296249F...

Terry Czechowskyj

Solicitor for the Respondent, Alberta  
Foothills Properties Ltd.

**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that \_\_\_\_\_, the receiver (the "**Receiver**") of all of the assets, undertakings and properties of, Alberta Foothills Properties Ltd., appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, \_\_\_\_ (the "**Order**") made in action numbers \_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at \_\_\_\_\_.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.


7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_ solely in  
its capacity as Receiver of the Property (as  
defined in the Order), and not in its personal  
capacity

Per: \_\_\_\_\_  
Name:  
Title:

THIS IS EXHIBIT "X"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

# FASKEN

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

350 7th Avenue SW, Suite 3400  
Calgary, Alberta T2P 3N9  
Canada

T +1 403 261 5350  
+1 877 336 5350  
F +1 403 261 5351

fasken.com

October 27, 2020  
File No.: 279839.00045/20066

Travis P. Lysak  
Direct +1 403 261 5501  
tlysak@fasken.com

## Via Email

**Drew Atkins**  
3505 - 18th Street SW  
Calgary, Alberta T2T 4T9

Dear Sir:

Re: **Indebtedness of Alberta Foothills Properties Ltd. (the “Debtor”) to ATB Financial (the “Lender”)**

We are solicitors for the Lender.

We write with respect to loans and advances that the Lender made in favour of the Debtor (the “**Facilities**”) pursuant to an amended and restated Commitment Letter dated September 29, 2017 (the “**Commitment Letter**”).

We refer you to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated August 17, 2015 granted by you in favour of the Lender, guaranteeing the repayment of the indebtedness of the Debtor to the Lender for an amount limited to \$7,000,000.00.

In addition, we refer you to a Debt Service and Cost Overrun Agreement dated August 17, 2015 executed, among others, by you (the “**Debt Service Agreement**”).

The Debtor has committed defaults under the Facilities and the Lender has demanded the repayment of all amounts owed to it by the Debtor, and all amounts owed by the Debtor to the Lender are immediately due and payable, namely the sum of \$13,395,949.09, plus costs, plus further accruing interest.

Based on the foregoing, on behalf of the Lender, we demand from you full payment of all amounts due and owing to the Lender pursuant to the Guarantee. The amount due as of the date of this letter is the sum of \$7,000,000.00, including accrued interest to the date of this letter, plus all further accruing interest payable in accordance with the Guarantee and the Debt Service Agreement from the date of this letter (“**Interest**”), plus all costs incurred with respect to the recovery of the foregoing amounts, including legal fees on a solicitor and own client, full indemnity basis (“**Costs**”).



# FASKEN

Please note that from the date of this letter, Interest continues to accrue and Costs will continue to be incurred, which you will be responsible for until payment of all amounts owing by the Debtor is received by either certified cheque or bank draft at the following address:

ATB Financial  
Suite 600, 585 – 8<sup>th</sup> Avenue SW (West Tower)  
Calgary AB T2P 1G1  
Attention: John Sullivan

or to Fasken Martineau DuMoulin LLP, at the above noted address, to the attention of the undersigned.

We enclose for service upon you a Notice of Intention to Enforce Security in accordance with subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada).

If you have any questions or concerns, please contact the undersigned.

Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**



Travis Lysak

TP/mt

cc Client

**NOTICE OF INTENTION TO ENFORCE SECURITY**

FORM 86  
(Subsection 244(1))

TO: Drew Atkins (the "**Debtor**"), an insolvent person

TAKE NOTICE THAT:

1. ATB Financial (the "**Lender**"), a secured creditor, intends to enforce its security against all property described in the attached **Schedule "A"**.
2. The security that is to be enforced is in the form of all documents described in the attached **Schedule "B"**.
3. The total amount of indebtedness secured by the security is, as of the date of this notice, the sum of \$7,000,000.00, plus all accruing interest from the date of this notice, plus all costs incurred with respect to the collection thereof, including legal fees on a solicitor and his own client, full indemnity basis.
4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement.

DATED this 27<sup>th</sup> day of October, 2020

**ATB FINANCIAL**

Per: \_\_\_\_\_

**Travis Lysak, Solicitor and Authorized  
Signatory**

The undersigned hereby waive the ten day notice period provided for in this Notice of Intention to Enforce Security and consents to the immediate enforcement by the Lender of all security above-noted.

**DREW ATKINS**

Per: \_\_\_\_\_

Authorized Signatory

**Schedule "A"**

1. All indebtedness, present and future, of Alberta Foothills Properties Ltd. to the Debtor, together with each and every security thereof.

**Schedule "B"**

1. Continuing Guarantee (Including Postponement and Assignment of Claims) dated August 17, 2015 granted by Drew Atkins in favour of the Lender for an amount limited to \$7,000,000.

# FASKEN

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

350 7th Avenue SW, Suite 3400  
Calgary, Alberta T2P 3N9  
Canada

T +1 403 261 5350  
+1 877 336 5350  
F +1 403 261 5351

fasken.com

October 27, 2020  
File No.: 279839.00045

Travis Lysak  
Direct +1 403 261 5501  
tlysak@fasken.com

## Via Email

**1367803 Alberta Ltd.**  
3505 - 18th Street SW  
Calgary, Alberta T2T 4T9

Dear Sir/Madame:

Re: **Indebtedness of Alberta Foothills Properties Ltd. (the "Debtor") to ATB Financial (the "Lender")**

We are solicitors for the Lender.

We write with respect to loans and advances that the Lender made in favour of the Debtor (the "**Facilities**") pursuant to an amended and restated Commitment Letter dated September 29, 2017, as amended from time to time (the "**Commitment Letter**").

We refer you to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated August 17, 2015 granted by 1367803 Alberta Ltd. in favour of the Lender, guaranteeing the repayment of the indebtedness of the Debtor to the Lender for an unlimited amount (the "**Guarantee**").

In addition, we refer you to:

- a) a Debt Service and Cost Overrun Agreement dated August 17, 2015 executed, among others, by 1367803 Alberta Ltd. (the "**Debt Service Agreement**"); and
- b) an Amended and Restated Subordination and Standstill Agreement dated September, 2017 with respect to all indebtedness of the Debtor to 1367803 Alberta Ltd. (the "**Subordination Agreement**").

The Debtor has committed defaults under the Facilities and the Lender has demanded the repayment of all amounts owed to it by the Debtor, and all amounts owed by the Debtor to the Lender are immediately due and payable, namely the sum of \$13,395,949.09, plus costs, plus further accruing interest.

Based on the foregoing, on behalf of the Lender, we demand from 1367803 Alberta Ltd. full payment of all amounts due and owing to the Lender pursuant to the Commitment Letter, the



# FASKEN

Guarantee, the Debt Service Agreement, and the Subordination Agreement (collectively, the “**Loan Documents**”). The amount due as of October 23, 2020 is the sum of \$13,395,949.09, including accrued interest to October 23, 2020, plus all further accruing interest payable in accordance with the Loan Documents from October 23, 2020 (“**Interest**”), plus all costs incurred with respect to the recovery of the foregoing amounts, including legal fees on a solicitor and own client, full indemnity basis (“**Costs**”).

Please note that from October 23, 2020, Interest continues to accrue and Costs will continue to be incurred, which 1367803 Alberta Ltd. will be responsible for until payment of all amounts owing by the Debtor is received by either certified cheque or bank draft at the following address:

ATB Financial  
Suite 600, 585 – 8<sup>th</sup> Avenue SW (West Tower)  
Calgary AB T2P 1G1  
Attention: John Sullivan

or to Fasken Martineau DuMoulin LLP, at the above noted address, to the attention of the undersigned.

We enclose for service upon you a Notice of Intention to Enforce Security in accordance with subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada).

If you have any questions or concerns, please contact the undersigned.

Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**



Travis Lysak

TL/mt

cc Client

**NOTICE OF INTENTION TO ENFORCE SECURITY**

FORM 86  
(Subsection 244(1))

TO: 1367803 Alberta Ltd. (the "**Debtor**"), an insolvent person

TAKE NOTICE THAT:

1. ATB Financial (the "**Lender**"), a secured creditor, intends to enforce its security against all property described in the attached **Schedule "A"**.
2. The security that is to be enforced is in the form of all documents described in the attached **Schedule "B"**.
3. The total amount of indebtedness secured by the security is, as of October 23, 2020, the sum of \$13,395,949.09, plus all accruing interest from October 23, 2020, plus all costs incurred with respect to the collection thereof, including legal fees on a solicitor and his own client, full indemnity basis.
4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement.

DATED this 27<sup>th</sup> day of October, 2020

**ATB FINANCIAL**

Per: \_\_\_\_\_

**Travis Lysak, Solicitor and Authorized  
Signatory**

The undersigned hereby waive the ten day notice period provided for in this Notice of Intention to Enforce Security and consents to the immediate enforcement by the Lender of all security above-noted.

**1367803 ALBERTA LTD.**

Per: \_\_\_\_\_

Authorized Signatory

**Schedule "A"**

1. All indebtedness, present and future, of Alberta Foothills Properties Ltd. to the Debtor, together with each and every security thereof.



**Schedule "B"**

1. Continuing Guarantee (Including Postponement and Assignment of Claims) dated August 17, 2015 granted by 1367803 Alberta Ltd. in favour of the Lender for an unlimited amount.
  2. Amended and Restated Subordination and Standstill Agreement dated September 15, 2017 with respect to the all indebtedness of the Debtor to 1367803 Alberta Ltd.
-

# FASKEN

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

350 7th Avenue SW, Suite 3400  
Calgary, Alberta T2P 3N9  
Canada

T +1 403 261 5350  
+1 877 336 5350  
F +1 403 261 5351

fasken.com

October 27, 2020  
File No.: 279839.00045

**Travis Lysak**  
Direct +1 403 261 5501  
tlysak@fasken.com

## Via Email

~~Alberta Foothills Properties Ltd.~~  
3505 - 18th Street SW  
Calgary, Alberta T2T 4T9

Dear Sir/Madame:

Re: **Indebtedness of Alberta Foothills Properties Ltd. (the “Debtor”) to ATB Financial (the “Lender”)**

We are solicitors for the Lender.

We write with respect to loans and advances that the Lender made in favour of the Debtor (the “**Facilities**”) pursuant to an amended and restated Commitment Letter dated September 29, 2017 (the “**Commitment Letter**”).

In addition, we refer you to the security documents listed in the attached **Schedule “A”**, which secure the repayment of the Facilities (collectively, the “**Security**”).

In addition to the Facilities being repayable on demand, the Debtor has committed defaults under the Commitment Letter and the Security, including, but not limited to failing to make payments pursuant to the Commitment Letter.

Based on the foregoing, on behalf of the Lender, we demand from the Debtor full payment of all amounts due and owing to the Lender pursuant to the Commitment Letter and the Security. The amount due as of October 23, 2020 is the sum of \$13,395,949.09, including accrued interest to October 23, 2020 plus all further accruing interest payable in accordance with the Commitment Letter and the Security from October 23, 2020 (“**Interest**”), plus all costs incurred with respect to the recovery of the foregoing amounts, including legal fees on a solicitor and own client, full indemnity basis (“**Costs**”), (collectively, the “**Indebtedness**”).

The Indebtedness is broken down as follows:

- (a) Account 760-00723976900:
  - (i) Principal \$60.99.



# FASKEN

(ii)	Accrued Interest to October 23, 2020	\$0.77.
(iii)	Total	\$61.76.
(iv)	<i>Per Diem</i> Interest	\$0.03.
(b)	Account 760-28017791100:	
(i)	Principal	\$9,000,000.00.
(ii)	Accrued Interest to October 23, 2020	\$2,171,050.91.
(iii)	Total	\$11,171,050.91.
(iv)	<i>Per Diem</i> Interest	\$1,836.99.
(c)	Account 760-29591149400:	
(i)	Principal	\$1,300,000.00.
(ii)	Accrued Interest to October 23, 2020	\$310,981.36.
(iii)	Total	\$1,610,981.36.
(iv)	<i>Per Diem</i> Interest	\$265.34.
(d)	Account 760-31940301900:	
(i)	Principal	\$0.00.
(ii)	Accrued Interest to October 23, 2020	\$20,088.76.
(iii)	Total	\$20,088.76.
(iv)	<i>Per Diem</i> Interest	\$0.00.
(e)	Account 760-34241108300:	
(i)	Principal	\$260,141.39.
(ii)	Accrued Interest to October 23, 2020	\$28,159.73.
(iii)	Total	\$288,301.12.
(iv)	<i>Per Diem</i> Interest	\$53.10.
(f)	Account 760-35175574900:	



# FASKEN

(i)	Principal	\$237,207.18.
(ii)	Accrued Interest to October 23, 2020	\$44,552.09.
(iii)	Total	\$281,759.27.
(iv)	<i>Per Diem</i> Interest	\$67.91.
(g)	Account 760-35176516700:	
(i)	Principal	\$20,000.00.
(ii)	Accrued Interest to October 23, 2020	\$2,246.98.
(iii)	Total	\$22,246.98.
(iv)	<i>Per Diem</i> Interest	\$4.08.
(h)	Account 760-38549709400:	
(i)	Principal	\$1,435.51.
(ii)	Accrued Interest to October 23, 2020	\$23.42.
(iii)	Total	\$1,458.93.
(iv)	<i>Per Diem</i> Interest	\$0.41.
(i)	further accruing interest from October 23, 2020.	
(j)	all Costs.	

Please note that from October 23, 2020, Interest continues to accrue and Costs will continue to be incurred, which the Debtor will be responsible for until payment of all amounts owing by the Debtor is received by either certified cheque or bank draft at the following address:

ATB Financial  
Suite 600, 585 – 8<sup>th</sup> Avenue SW (West Tower)  
Calgary AB T2P 1G1  
Attention: John Sullivan

or to Fasken Martineau DuMoulin LLP, at the above noted address, to the attention of the undersigned.

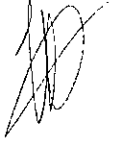
We enclose for service upon you a Notice of Intention to Enforce Security in accordance with subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada).

# FASKEN

If you have any questions or concerns, please contact the undersigned.

Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**



Travis Lysak

TL/mt

cc Client



# FASKEN

## Schedule "A"

1. Collateral Mortgage dated August 17, 2015, as amended by a Mortgage Amending Agreement dated July 12, 2016 and a Mortgage Amending Agreement dated March 21, 2018 in the amount of \$30,000,000 granted by the Debtor in favour of the Lender with respect to the lands legally described as Meridian 4, Range 29, Township 20, Section 16, NW Quarter (the "Lands").
2. General Security Agreement dated as of August 17, 2015 granted by the Debtor in favour of the Lender.
3. Debt Service and Cost Overrun Agreement dated August 17, 2015 granted by the Debtor, 1367803 Alberta Ltd., and Drew Atkins in favour of the Lender.
4. Specific Assignment of Major Development Agreement dated as of August 17, 2015 granted by the Debtor in favour of the Lender.
5. Specific Assignment of Major Construction Contracts dated as of August 17, 2015 granted by the Debtor in favour of the Lender.
6. Amended and Restated Subordination and Standstill Agreement dated September, 2017 executed by, among others, the Debtor, with respect to all indebtedness of the Debtor to 1367803 Alberta Ltd.
7. Assignment of Sales Agreement relating to the Lands.
8. Assignment of Monies on deposit in the amount of \$400,000.
9. Assignment of Sale Proceeds for \$800,000 for the sale for the water license to the MD of Foothills.

**NOTICE OF INTENTION TO ENFORCE SECURITY**

FORM 86  
(Subsection 244(1))

TO: Alberta Foothills Properties Ltd. (the "**Debtor**"), an insolvent person

TAKE NOTICE THAT:

1. ATB Financial (the "**Lender**"), a secured creditor, intends to enforce its security against all property described in the attached **Schedule "A"**.
2. The security that is to be enforced is in the form of all documents described in the attached **Schedule "B"**.
3. The total amount of indebtedness secured by the security is, as of October 23, 2020, the sum of \$13,395,949.09, plus all accruing interest from October 23, 2020, plus all costs incurred with respect to the collection thereof, including legal fees on a solicitor and his own client, full indemnity basis.
4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement.

DATED this 27<sup>th</sup> day of October, 2020

**ATB FINANCIAL**

Per: 

\_\_\_\_\_  
**Travis Lysak, Solicitor and Authorized  
Signatory**

The undersigned hereby waive the ten day notice period provided for in this Notice of Intention to Enforce Security and consents to the immediate enforcement by the Lender of all security above-noted.

**ALBERTA FOOTHILLS PROPERTIES LTD.**

Per: \_\_\_\_\_

Authorized Signatory

**Schedule "A"**


1. All present and after-acquired real and personal property of the Debtor, including but not limited to the Debtor's interest in the lands legally described as Meridian 4, Range 29, Township 20, Section 16, NW Quarter.
2. The Debtor's interest in the lands legally described as Meridian 4, Range 29, Township 20, Section 16, NW Quarter.



**Schedule "B"**

1. Collateral Mortgage dated August 17, 2015, as amended by a Mortgage Amending Agreement dated July 12, 2016 and a Mortgage Amending Agreement dated March 21, 2018 in the amount of \$30,000,000 granted by the Debtor in favour of the Lender with respect to the lands legally described as Meridian 4, Range 29, Township 20, Section 16, NW Quarter (the "**Lands**").
2. General Security Agreement dated as of August 17, 2015 granted by the Debtor in favour of the Lender.
3. ~~Debt Service and Cost Overrun Agreement dated August 17, 2015 granted by the Debtor,~~ 1367803 Alberta Ltd., and Drew Atkins in favour of the Lender.
4. Specific Assignment of Major Development Agreement dated as of August 17, 2015 granted by the Debtor in favour of the Lender.
5. Specific Assignment of Major Construction Contracts dated as of August 17, 2015 granted by the Debtor in favour of the Lender.
6. Amended and Restated Subordination and Standstill Agreement dated September, 2017 executed by, among others, the Debtor, with respect to all indebtedness of the Debtor to 1367803 Alberta Ltd.
7. Assignment of Sales Agreement relating to the Lands.
8. Assignment of Monies on deposit in the amount of \$400,000.
9. Assignment of Sale Proceeds for \$800,000 for the sale for the water license to the MD of Foothills.

THIS IS EXHIBIT "Y"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

On Tue, Jan 5, 2021 at 12:41 PM Brian Lund <[brian@financial-logic.com](mailto:brian@financial-logic.com)> wrote:

Alex:

I am advised by management that there is no liability insurance in place with AFPL. The policy was not renewed after its expiry in August 2018.

Best regards,


-----

Brian Lund

Managing Director

Financial Logic

 [brian@financial-logic.com](mailto:brian@financial-logic.com)

 (504) 916 1910

---

**From:** Alex Dudek <[adudek@atb.com](mailto:adudek@atb.com)>

**Date:** Wednesday, December 23, 2020 at 10:35 AM

**To:** Brian Lund <[brian@financial-logic.com](mailto:brian@financial-logic.com)>

**Cc:** John Sullivan <[jsullivan@atb.com](mailto:jsullivan@atb.com)>

**Subject:** Re: [Ext Sender] Re: AFPL - Certificate of Insurance

Hello Brian,

Would you have an update for us on the insurance certificate?

Thanks,

Alex

Alexandra Dudek  
Associate Director  
Turnaround and Restructuring Group

**Mobile** 403-305-6568

Eighth Avenue Place, West Tower

Suite 600, 585 - 8th Ave SW, Calgary, Alberta T2P 1G1  
[atb.com](http://atb.com)



On Wed, Dec 9, 2020 at 11:03 AM Brian Lund <[brian@financial-logic.com](mailto:brian@financial-logic.com)> wrote:

Alex:

I will run this down.


Best regards,

-----  
Brian Lund

Managing Director

Financial Logic

 [brian@financial-logic.com](mailto:brian@financial-logic.com)

 (403) 916 1910

---

**From:** Alex Dudek <[adudek@atb.com](mailto:adudek@atb.com)>  
**Date:** Wednesday, December 9, 2020 at 11:01 AM  
**To:** Brian Lund <[brian@financial-logic.com](mailto:brian@financial-logic.com)>  
**Cc:** John Sullivan <[jsullivan@atb.com](mailto:jsullivan@atb.com)>  
**Subject:** AFPL - Certificate of Insurance

Good morning Brian,

Hope you are well and staying safe & healthy.

I am reaching out because the insurance certificate we have on file for the Wind Walk development expired as of August 5th (attached for reference).

Could you please send us an updated policy?

Thanks,

Alex

**Alexandra Dudek**  
Associate Director  
Risk Advisory and Management

**Mobile** 403-305-6568

Eighth Avenue Place, West Tower

Suite 600, 585 - 8th Ave SW, Calgary, Alberta T2P 1G1  
[atb.com](http://atb.com)



If you have received this email in error, please let me know by return email so I can make sure it doesn't happen again. Because emails can contain confidential and privileged material, I'd ask for your help by deleting it and any attachments. Thanks!

We like to keep people up to date with information about new products and services at ATB or changes that could affect you. You can check out more about ATB and CASL at <http://www.atb.com/important-information/privacy-security/Pages/ATB-and-CASL.aspx>

If you would like to unsubscribe from our updates, please use this URL - <http://www.atb.com/important-information/privacy-security/Pages/unsubscribe.aspx>

If you have received this email in error, please let me know by return email so I can make sure it doesn't happen again. Because emails can contain confidential and privileged material, I'd ask for your help by deleting it and any attachments. Thanks!

We like to keep people up to date with information about new products and services at ATB or changes that could affect you. You can check out more about ATB and CASL at <http://www.atb.com/important-information/privacy-security/Pages/ATB-and-CASL.aspx>

---

If you would like to unsubscribe from our updates, please use this URL - <http://www.atb.com/important-information/privacy-security/Pages/unsubscribe.aspx>

If you have received this email in error, please let me know by return email so I can make sure it doesn't happen again. Because emails can contain confidential and privileged material, I'd ask for your help by deleting it and any attachments. Thanks!

We like to keep people up to date with information about new products and services at ATB or changes that could affect you. You can check out more about ATB and CASL at <http://www.atb.com/important-information/privacy-security/Pages/ATB-and-CASL.aspx>

If you would like to unsubscribe from our updates, please use this URL - <http://www.atb.com/important-information/privacy-security/Pages/unsubscribe.aspx>

If you have received this email in error, please let me know by return email so I can make sure it doesn't happen again. Because emails can contain confidential and privileged material, I'd ask for your help by deleting it and any attachments. Thanks!

We like to keep people up to date with information about new products and services at ATB or changes that could affect you. You can check out more about ATB and CASL at <http://www.atb.com/important-information/privacy-security/Pages/ATB-and-CASL.aspx>

If you would like to unsubscribe from our updates, please use this URL - <http://www.atb.com/important-information/privacy-security/Pages/unsubscribe.aspx>

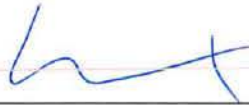
THIS IS EXHIBIT "Z"

Referred to in the Affidavit of

**John Sullivan,**

Sworn before me this 11

day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426



Alexandra Dudek &lt;adudek@atb.com&gt;

---

**[Ext Sender] FW: Wind Walk**

1 message

**Brian Lund** <brian@financial-logic.com>

Wed, Mar 24, 2021 at 10:09 AM

To: John Sullivan &lt;jsullivan@atb.com&gt;

Cc: Alex Dudek &lt;adudek@atb.com&gt;, Murray D'Angelo &lt;mdangelo@atb.com&gt;, Seth Atkins &lt;sethatkins@makeitright.ca&gt;, drew atkins &lt;drew.bland@me.com&gt;

John:

---

As discussed. Direction to NAI to move listing price to \$15,750,000 per their recommendation in the email chain.

Best regards,  
-----

Brian Lund

Managing Director

Financial Logic

✉ [brian@financial-logic.com](mailto:brian@financial-logic.com)

(604) 916 1910

---

**From:** Brian Lund <brian@financial-logic.com>**Date:** Monday, March 22, 2021 at 4:13 PM**To:** Harvey Russell <HRussell@naiadvent.com>**Cc:** Seth Atkins <sethatkins@makeitright.ca>, drew atkins <drew.bland@me.com>, Drew Atkins <drew.bland@mac.com>**Subject:** Re: Wind Walk

Harvey:

Recommendation on price reduction accepted by AFPL. I am advised to instruct you to proceed.

Best regards,  
-----

Brian Lund

Managing Director

Financial Logic



✉ [brian@financial-logic.com](mailto:brian@financial-logic.com)

📞 (604) 916 1910

---

**From:** Harvey Russell <[HRussell@naiadvent.com](mailto:HRussell@naiadvent.com)>  
**Date:** Monday, March 22, 2021 at 12:13 PM  
**To:** Brian Lund <[brian@financial-logic.com](mailto:brian@financial-logic.com)>  
**Subject:** FW: Wind Walk

Hello Brian;

Find attached revised proforma. We recommend the price be reduced to \$15,750,000. Can we do this quickly ? We want to capitalize on the existing interest and hopefully glean some additional interest. The single market is good right now – land developers are quite happy right now.

Please advise, harvey

**Harvey Russell**

Direct +1 403 984 6300

Cell + 1 403 620-0667

Main +1 403 984 9800

[hrussell@naiadvent.com](mailto:hrussell@naiadvent.com)

**From:** Andrea Legere [<mailto:logicalbookkeepingsolutions@gmail.com>]  
**Sent:** March 22, 2021 11:52 AM  
**To:** Harvey Russell <[HRussell@naiadvent.com](mailto:HRussell@naiadvent.com)>  
**Subject:** Wind Walk

Hi Harvey,

Please find attached updated proforma for wind walk.

Any questions or changes, let me know.

Thanks,

Andrea

Andrea Legere, CPA, CMA

5/10/2021

ATB Financial Mail - [Ext Sender] FW: Wind Walk

For: Logical Bookkeeping Solutions Inc

C: 403-880-3783

THIS IS EXHIBIT "AA"  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

**ATB**atb.com 

March 31, 2021

VIA EMAIL

Alberta Foothills Properties Ltd  
3505 – 18th Street SW  
Calgary, Alberta T2T 4T9

Attention: **Drew Atkins**

Dear Sir:

**Re: Credit Facilities provided by ATB Financial (“ATB”) in favour of Alberta Foothills Properties Ltd. (the “Borrower”) pursuant to an amended and restated Commitment Letter dated September 29, 2017 (the “Commitment Letter”)**

Reference is made to a Letter Agreement dated December 21, 2018, as amended by Amending Letter Agreements dated April 29, 2019, October 3, 2019, December 2, 2019, and October 30, 2020 among ATB, as lender, the Borrower, as borrower, and 1367803 Alberta Ltd. operating as Holmes Communities, and Drew Atkins, as guarantors (as amended, restated or otherwise modified, the “**Letter Agreement**”).

Any terms not defined in this letter shall have the meaning given to those terms in the Letter Agreement.

This letter constitutes formal notice that the Borrower has failed to perform, keep or observe certain covenants contained in the Letter Agreement, including, without limitation, the Borrower has failed to implement the Price Reduction (the “**Specified Default**”).

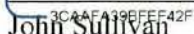
ATB has not, and shall not be deemed to have, waived the Specified Default, or any breach or default that has now or may in the future occur under the Letter Agreement, the Security Documents, or the Commitment Letter. ATB hereby provides notice to the Debtor Group that ATB reserves its right at any time to exercise any rights, remedies, powers and privileges afforded by law or under the Letter Agreement, the Security Documents, and the Commitment Letter with respect to the Specified Default. ATB hereby reserves all of its rights, remedies, powers and privileges afforded by law or under the Letter Agreement, the Security Documents, and the Commitment Letter with respect to any other breach or default which may have occurred on or prior to the date hereof.

ATB further reminds you that, pursuant to the Letter Agreement, the current forbearance period expires on April 30, 2021. If ATB is not repaid in full by April 30, 2021, it will be free to engage in all enforcement options available to it including, but not limited to, utilizing the Consent Receivership Order.

Sincerely,


**ATB FINANCIAL**

DocuSigned by:

  
John Sullivan

**Senior Director,  
Turnaround and Restructuring Group**

THIS IS EXHIBIT “**BB**”  
Referred to in the Affidavit of  
**John Sullivan,**  
Sworn before me this 11  
day of May, 2021



---

A COMMISSIONER/NOTARY FOR OATHS  
IN AND FOR THE PROVINCE OF ALBERTA

**Luc Rollingson**  
Student-at-Law  
3400, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9  
Ph: (403) 261-9426

---

**From:** Brian Lund <brian@financial-logic.com>  
**Sent:** May-03-21 2:08 PM  
**To:** John Sullivan <jsullivan@atb.com>  
**Cc:** drew atkins <drew.bland@me.com>; Seth Atkins <sethatkins@makeitright.ca>; Trina Holland <tholland@atb.com>; Alexandra Dudek <adudek@atb.com>; Travis Lysak <tlysak@fasken.com>  
**Subject:** [EXT] Re: [Ext Sender] ATB Financial - AFPL - Wind Walk

John:

Noted, thanks. AFPL will continue to press ahead with its efforts on the sale process and refinancing and keep you apprised of developments and progress over the next few days.

Best regards,

-----  
Brian Lund  
Managing Director  
Financial Logic

[brian@financial-logic.com](mailto:brian@financial-logic.com)  
(504) 916 1910

---

**From:** John Sullivan <jsullivan@atb.com>  
**Date:** Monday, May 3, 2021 at 2:02 PM  
**To:** Brian Lund <brian@financial-logic.com>  
**Cc:** drew atkins <drew.bland@me.com>; Seth Atkins <sethatkins@makeitright.ca>; Trina Holland <tholland@atb.com>; Alex Dudek <adudek@atb.com>; "Travis P. Lysak" <tlysak@fasken.com>  
**Subject:** Re: [Ext Sender] ATB Financial - AFPL - Wind Walk

Brian,

Thank you for your email. As you are aware, the Forbearance Period in the Letter Agreement dated October 30, 2020 between AFPL and ATB has expired and AFPL's facilities with ATB have yet to be repaid. At this stage, ATB has determined that it must move forward with enforcement and, in this regard, ATB has booked a date to apply to appoint a receiver over the assets of AFPL on May 17, 2021 at 2:00pm. ATB expects to file materials respecting this application early next week.

As you have noted in your email below, we understand that AFPL is currently working on both a sale of the property and a re-financing. Depending on the progress AFPL can make in these discussions between now and May 17, 2021, ATB may consider adjourning its application. Having said this, ATB will require evidence of substantial progress (for example, a binding offer sufficient to pay out the full amount owing, supported with a deposit) in order to consider such an adjournment.

If you have any further questions at this time, please do not hesitate to reach out.

---

**John Sullivan, CPA, CMA, MBA**  
**Turnaround and Restructuring Group**  
**ATB Financial**

**Mobile 403-510-6404**  
**[JSullivan@atb.com](mailto:JSullivan@atb.com)**  
Eighth Avenue Place, Suite 600, 585 8th Ave SW  
Calgary, AB, T2P 1G1



**[atb.com](http://atb.com)**

On Mon, May 3, 2021 at 11:42 AM Brian Lund <[brian@financial-logic.com](mailto:brian@financial-logic.com)> wrote:

John:

Thanks again for our discussions of April 30. AFPL appreciates the latitude provided by ATB regarding AFPL's debt facility to date as AFPL continues to pursue refinancing and a sale of the Wind Walk lands as parallel paths to enable AFPL to expeditiously retire its obligations with ATB.

I have been instructed to provide the following to ATB.

AFPL is formally requesting an extension to its forbearance period with ATB to May 28, 2021, to continue to pursue one or both of the following:

- Secure a written offer for purchase of the Wind Walk lands via AFPL's ongoing efforts with NAI Advent and interested parties (CIDEX, Qualico, Genesis, Durum)
- A formal written refinancing offer from CANAM Private Equity

As outlined during our April 30 videoconference, AFPL believes that optimal value for Wind Walk can be achieved via a normal market sale via NAI Advent's work as opposed to a receivership process.

AFPL understands that ATB wants to ensure maximum exposure for the Wind Walk lands during the current selling season for development lands. APFL believes that the ongoing efforts via NAI Advent are generating this exposure for Wind Walk.

In parallel, Drew advises that his management team is ready to close any gap arising from a CANAM financing offer and AFPL's obligations to ATB.

Thank you for your consideration of this request.


Best regards,

-----  
Brian Lund

Managing Director

Financial Logic

 [brian@financial-logic.com](mailto:brian@financial-logic.com)

 (504) 916 1910

If you have received this email in error, please let me know by return email so I can make sure it doesn't happen again. Because emails can contain confidential and privileged material, I'd ask for your help by deleting it and any attachments. Thanks!

We like to keep people up to date with information about new products and services at ATB or changes that could affect you. You can check out more about ATB and CASL at <http://www.atb.com/important-information/privacy-security/Pages/ATB-and-CASL.aspx>

If you would like to unsubscribe from our updates, please use this URL - <http://www.atb.com/important-information/privacy-security/Pages/unsubscribe.aspx>